

**ALABAMA LAWS**  
**(and Joint Resolutions)**  
**OF THE**  
**LEGISLATURE OF ALABAMA**

**PASSED AT THE**  
**REGULAR SESSION, 1990**

**VOL. 2**



**GUY HUNT, Governor**  
**JIM FOLSOM, JR., Lieutenant Governor**  
**RYAN DEGRAFFENRIED, President Pro-Tem of the Senate**  
**JAMES S. CLARK, Speaker of the House**  
**JAMES M. CAMPBELL, Speaker Pro-Tem of the House**  
**McDOWELL LEE, Secretary of the Senate**  
**JOHN W. PEMBERTON, Clerk of the House**

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**WITH AN INDEX PREPARED BY THE**  
**LEGISLATIVE REFERENCE SERVICE**

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The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1990 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Perry Hand  
Secretary of State

## **"WE, THE PEOPLE . . ."**

The beginning words of the United States and Alabama Constitutions, "We the People," reflect the great pride we take in passing laws to control our own destiny. Our representatives have established laws throughout the years since the inception of the Constitution in 1787, and they continually strive to pass good legislation so that the future may be one of hope, economic growth, and generally a better world for those who follow after us.

The Secretary of State is required by the Code of Alabama, 1975, to publish and make available the laws and resolutions of the Legislature. Therefore, the acts contained herein are published for public perusal after the completion of the legislative session each year. There are many people who are due the credit for making these volumes possible, including, McDowell Lee, Secretary of the Senate; John Pemberton, Clerk of the House of Representatives; Joyce Bishop and Julie Saint, enrolling and engrossing clerks; Dodie Pappanastos and Helen Thorington, technical proofreaders; Dannie Shockley, recording secretary for the Governor; Louis Greene, Director of the Legislative Reference Service; and Betty Lane Thrasher of the Secretary of State's office.

Perry A. Hand,  
Secretary of State



**ALABAMA LAWS**  
**And Joint Resolutions**  
**REGULAR SESSION 1990**

Act No. 90-491

H.J.R. 529—Reps. Newman, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Gullatt, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Lindsey, Logan, Marietta-Lyons, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Moon, Newton (C), Newton (D), Parker, Payne, Penry, Perdue, Petelos, Poole, Rains, Richardson, Rogers, Sanderford, Slaughter, Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White (F), White (G), White (L), Williams, Willis, Wright and Zoghby

**HOUSE JOINT RESOLUTION**

**COMMENDING GEORGE G. SEIBELS, JR., FOR DISTINGUISHED SERVICE TO THE LEGISLATURE AND STATE OF ALABAMA.**

WHEREAS, our esteemed colleague, Representative George Seibels, Jr., of Birmingham, Alabama, has announced his decision not to seek reelection to the next legislative quadrennium, thus ending a distinguished tenure of three four-year terms in service to the Legislature and State as a member of the Alabama House of Representatives; and

WHEREAS, these past twelve years, however, although productive and to the good of his constituents and all citizens of Alabama, represent only a portion of Mr. Seibels' commitment to public service which began with his election in 1963 to the Birmingham City Council; and

WHEREAS, in 1967, Mr. Seibels was elected to the first of two consecutive terms as Mayor of the City of Birmingham and it was under his leadership that many positive programs were initiated, including affirmative steps to greatly increase the number of blacks in the Birmingham Police Department; the development of some 48 playgrounds and improved citywide clean-up which resulted in Birmingham's designation as an All-American City by the American League of Cities; and a hotel tax was imposed to create the first Birmingham Visitors Bureau, among numerous other accomplishments; and

WHEREAS, Mayor Seibels also served by appointment of President Gerald Ford as alternate federal co-chairman of the Appalachian Regional Commission in 1976-1977 prior to his election to the Legislature; and

WHEREAS, George G. Seibels, Jr., widely known as "Mayor" and/or "The grand old man of the Republican Party," came to the Legislature as one of only four Republicans in the House where 22 serves today; as a longtime member of the GOP, Mayor Seibels has worked unceasingly toward a more equitable two-party system in Alabama, and he is to be greatly credited with the tremendous strides that has been made to this end; and

WHEREAS, Mr. Seibels is a graduate of the University of Virginia, a former insurance executive, one of Birmingham's and Alabama's most ardent boosters, an exemplary public servant and a distinguished American patriot; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to community, state and nation, and in tribute to his distinguished public service career, we hereby most highly commend our good friend and colleague, George G. Seibels, Jr., of

Birmingham, Alabama, to whom a copy of this resolution of sincere praise shall be presented.

Approved April 18, 1990

Time: 6:29 P.M.

Act No. 90-492

H.J.R. 570—Rep. Carter

### HOUSE JOINT RESOLUTION

COMMENDING PERRI COLLEY FOR BEING NAMED THE NATIONAL HIGH SCHOOL JOURNALIST OF THE YEAR.

WHEREAS, this Legislature notes with pride that Athens High School senior Perri Colley received the title of National High School Journalist of the Year from the Journalism Education Association; and

WHEREAS, the honor is accompanied by a \$1,000.00 scholarship to the college of her choice; and

WHEREAS, in addition to developing and editing the Athens High School's news magazine Scan It, Perri Colley free-lances for two newspapers and has also worked in a graphics company designing computer graphics; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate Perri Colley upon receiving the honor of being named the National High School Journalist of the Year.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Perri Colley with our commendations for being the first student from an Alabama high school to receive this prestigious award.

Approved April 18, 1990

Time: 6:30 P.M.

Act No. 90-493

H.J.R. 579—Reps. Haynes and Johnson (RG)

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF ALBERT CLIFFORD BECK, JR., OF TALLADEGA, ALABAMA.

WHEREAS, in sentiment of deep sorrow, the Alabama Legislature records the lamentable death of Albert Clifford Beck, Jr., of Talladega, Alabama, on October 28, 1988; and

WHEREAS, a native and lifelong resident of Talladega County, Albert Clifford "Bo" Beck was a member of Howard Chapel C.M.E. Church, where he served as a class leader and a member of the Trustee Board; he was a 1966 graduate of Talladega County Training High School and attended Gadsden State Community College, where he received his associate art degree; and

WHEREAS, he was a former employee of the U. S. Soil Conservation Service and a veteran of the Vietnam Conflict; in 1980 he joined the staff of the Federal Bureau Prison at the Federal Correctional Institute, as a landscape foreman and also served as a ride control officer; he was vice president of Local American Federation of Government Employees Council of Prisons and president of the Talladega County Training School Athletic Booster Club; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; and

WHEREAS, Bo Beck gained the respect and fond feelings of those who knew him whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life of Albert Clifford Beck, Jr., of Talladega, Alabama, and do further direct that a copy of this resolution be forwarded to his wife, Edith Maxine Beck; his two sons, Torrance Clifford Beck and Albert Demetrius Beck; and his parents, Albert C. and Myrtle C. Beck, that they and other family members may know of our concern for them, and that we sincerely share the sorrow of their great and grievous loss.

Approved April 18, 1990

Time: 6:31 P.M.

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Act No. 90-494

H.J.R. 580—Rep. Haynes

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM C. HOLMES, OF TALLADEGA, ALABAMA.

WHEREAS, in sentiment of deep sorrow, the Alabama Legislature records the lamentable death of William C. Holmes of Talladega, Alabama, on November 12, 1989; and

WHEREAS, William C. "Cap" Holmes served as Talladega's first full-time fire chief from 1955 until his retirement in 1972; and

WHEREAS, Cap Holmes served as director of fire safety for the Alabama International Motor Speedway, kept the scoreboard at Mary Dumas Field for Talladega High School and the Alabama School for the Deaf and Blind, was active in providing fire safety and information programs for area school children, was active in civil defense, was an active member of Trinity Methodist Church and contributed to Boy Scout activities; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; and

WHEREAS, Mr. Holmes gained the respect and fond feelings of those who knew him whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of William C. Holmes of Talladega, Alabama, and extend sincere and deepest sympathy to his children, Carolyn Stewart, Lanell Jueckstock and Milton Cochran; his grandchildren and great grandchildren, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved April 18, 1990

Time: 6:32 P.M.

Act No. 90-495

H.J.R. 476—Reps. Kvalheim and Gaston

### HOUSE JOINT RESOLUTION

COMMENDING DAVID D. ROBERTS, III, OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, in highest commendation, congratulates David D. Roberts, III, of Mobile, Alabama, who has attained the rank of Eagle Scout, Boy Scouts of America; and

WHEREAS, this coveted rank was earned through countless hours of hard work, diligence and great perseverance to complete the

required community service project and to fulfill the other stringent criteria for Eagle Scout status; and

WHEREAS, David Roberts has indeed exemplified, through his years of participation in scouting, those admirable attributes of self-discipline and self-reliance, good citizenship, devotion to duty and concern for his fellowman; and

WHEREAS, David Roberts, a 13-year-old eighth grade student and a member of Dauphin Way United Methodist Church, has been a Scout for seven years; he is a member of Troop 28 in Mobile, holding many leadership positions, including Senior Patrol Leader, and was recognized and received his Eagle Scout Badge in January 1990; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consensus of commendation and esteem, we most heartily congratulate Eagle Scout David D. Roberts, III, of Mobile, Alabama, and direct that he receive a copy of this resolution that he may know of our sincere praise and warm best wishes for every future success in life.

Approved April 18, 1990

Time: 6:33 P.M.

Act No. 90-496

H.J.R. 477—Reps. White (F) and Warren

#### HOUSE JOINT RESOLUTION

COMMENDING JOSEPH B. WEAVER ON HIS RETIREMENT, BREWTON, ALABAMA.

WHEREAS, in consensus of commendation, the Legislature of Alabama notes the accomplished career of Joseph B. Weaver, a distinguished educator and school administrator whose professional career has been one of deep dedication and commitment to the furtherance and support of public education as a right and privilege of Alabama's youth; and

WHEREAS, Mr. Weaver's eminent tenure as an educator began upon his graduation from Troy State University with a Bachelor of Arts degree and from Auburn University with a Master's degree; and

WHEREAS, he taught in the veterans' training program in Conecuh County in the fifties and taught in the public schools at Excel High, Monroe County; and

WHEREAS, Mr. Weaver accepted in 1966, the position of dean of students and business manager at the newly opened Jefferson

Davis State Junior College in Brewton, Alabama, where he served for 23 years and served additionally as financial aid director, public relations director and sponsor of the yearbook and college newspaper; and

WHEREAS, he helped supervise the construction of ten additional buildings and helped design and build a 65 acre recreational complex, including golf course, lake, baseball and softball fields, tennis courts and a 2-mile jogging track at the Jefferson Davis State Junior College; and

WHEREAS, he further served as president of the Alabama Business Officers Association, member of Alabama Public Relation Association and in 1973, and he was selected to "Outstanding Educators of America"; and

WHEREAS, in addition to his many professional responsibilities and pursuits, Mr. Weaver has served the community by being cited for outstanding service to 4-H Clubs, Future Farmers of America, Fellowship of Christian Athletes, student government associations, as a deacon and Sunday School teacher of First Baptist Church, and through involvement in numerous other civic and charitable affairs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Joseph B. Weaver of Brewton, Alabama, on his retirement, and do further direct that he receive a copy of this resolution of sincere admiration and esteem.

Approved April 18, 1990

Time: 6:34 P.M.

Act No. 90-497

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H.J.R. 479—Reps. McMillan, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Gullatt, Hall,

Hamilton, Hammett, Harper,  
 Harvey, Haynes, Headley,  
 Higginbotham, Hill, Hogan,  
 Holley, Holmes, Hooper,  
 Johnson (RG), Johnson (RW),  
 Kennedy, Knight, Kvalheim,  
 Laird, Layson, Lindsey, Logan,  
 Marietta-Lyons, Marks, Mathis,  
 McClain, McDowell, McKee,  
 Melton, Mikell, Moon,  
 Newman, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos, Poole,  
 Rains, Richardson, Rogers,  
 Sanderford, Seibels, Slaughter,  
 Spratt, Starkey, Thomas,  
 Turner, Turnham, Venable,  
 Walker, Warren, White (F),  
 White (G), White (L), Williams,  
 Willis, Wright and Zoghby

#### HOUSE JOINT RESOLUTION

##### COMMEMORATING THE LIFE AND SERVICE OF JOHN H. WHITE OF BAY MINETTE, ALABAMA.

WHEREAS, the late John H. White, a native of Baldwin County and a resident of Bay Minette, Alabama, was a member of Lambda Chi Alpha and received his law degree at the University of Georgia which recognized this distinguished alumnus through both the establishment of a scholarship and the naming of a library in his honor; and

WHEREAS, a veteran of World War II, Mr. White returned to Bay Minette in 1945, joining the accounting department of Newport Industries where he was employed for a number of years; and

WHEREAS, widely and affectionately called "Judge," Mr. White was indeed one of Bay Minette's most prominent and beloved citizens who became nationally and internationally known for his dedicated support of the Kiwanis and Key Clubs, most particularly the latter, through his instrumental role in the establishment of the Key Club at Baldwin County High School which he actively served as sponsor for some 35 years beginning in 1951; and

WHEREAS, "Judge" White also became known as "The Great White Father," a term of respect and deep admiration bestowed by the many thousands of Key Club members in high schools throughout the State of Alabama, and nationwide, in gratitude for his leadership



in promoting a commitment to service and fostering good citizenship among the members of Key Club International; and

WHEREAS, Bay Minette's Christmas giving program, which was named "White Christmas," is another tribute to the dedication displayed by "Judge" White in selfless civic and community service; and

WHEREAS, although "Judge" White actively supported a number of organizations and their worthy causes, he is remembered most especially as a man who, even though a bachelor, perhaps had more direct and positive influence on the young people of Alabama than any other single individual; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in posthumous recognition, we hereby commend and commemorate the life and service of John H. White of Bay Minette, Alabama.

Approved April 18, 1990

Time: 6:35 P.M.

Act No. 90-498

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H.J.R. 481—Reps. Newman, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Gullatt, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Lindsey, Logan, Marietta-Lyons, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton,

Mikell, Moon, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Perdue, Petelos, Poole,  
 Rains, Richardson, Rogers,  
 Sanderford, Seibels, Slaughter,  
 Spratt, Starkey, Thomas,  
 Turner, Turnham, Venable,  
 Walker, Warren, White (F),  
 White (G), White (L),  
 Williams, Willis, Wright and  
 Zoghby

### HOUSE JOINT RESOLUTION

COMMENDING REPRESENTATIVE CHARLES BRITNELL  
 OF RUSSELLVILLE, FRANKLIN COUNTY, ALABAMA.

WHEREAS, at the close of the current term of the Alabama Legislature, our friend and colleague, Representative Charles Britnell will have completed three terms of meritorious legislative service, not only on behalf of his constituents in House District 18 but also for the betterment of all citizens of Alabama as well; and

WHEREAS, regrettably, Mr. Britnell has elected not to seek a fourth term and his loss to the Legislature will be keenly felt in many areas of his particular interest and experience; and

WHEREAS, during the past twelve years, Representative Britnell served two terms in the House of Representatives, 1983 to present, and one term in the Senate 1978-1982; having served as chairman of the House committees on Highway Safety, Military Affairs and State Administration, and having also served on the Judiciary and Education committees in both the House and the Senate; and

WHEREAS, Representative Britnell has been a minister of the Church of Christ since 1950 and President of Northwest Alabama Community College in Phil Campbell, Alabama, since 1981 and holds numerous citations and designations that attest to his successful and tireless efforts as a spiritual leader, educator and legislator; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Representative Charles Britnell of Russellville, Alabama, for outstanding service as a member of both the Alabama House of Representatives and the Alabama Senate; we further express our hopeful anticipation of his return someday to a future term in our Legislature.

Approved April 18, 1990

Time: 6:36 P.M.

Act No. 90-499

H.J.R. 483—Rep. Layson

## HOUSE JOINT RESOLUTION

COMMENDING ROBERT HUGH KIRKSEY, A DISTINGUISHED JURIST.

WHEREAS, the Alabama Legislature in highest tribute, notes the distinguished service of Attorney Robert Hugh Kirksey, a native Alabamian educated at the Citadel, Charleston, South Carolina, and the University of Alabama School of Law; and

WHEREAS, he is a highly decorated veteran of World War II and has served as Probate Judge of Pickens County (1962-1981), director of University of Alabama Alumni Affairs (1981-1986), past president of Probate Judges Association of Alabama (1967-1968), and past president of the University of Alabama National Alumni Association (1971-1972); and

WHEREAS, Attorney Kirksey is the recipient of numerous awards including the University of Alabama Distinguished Alumnus Award (1980), Aliceville Chamber of Commerce Citizen of the Year (1963) and is ruling Elder in the Aliceville First Presbyterian Church; and

WHEREAS, he had a major role in the building of the Pickensville's bridge, a major highway route across the Ten-Tom Waterway; and

WHEREAS, he is a man of integrity and dignity, loyal to his friends, devoted to his family and dedicated in his sense of duty and responsibility to his church and state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Attorney Robert Hugh Kirksey for distinguished service to the legal profession.

BE IT FURTHER RESOLVED, That Attorney Kirksey receive a copy of this resolution in declaration of our sincere appreciation and regard and in expression of our warm best wishes for every future success.

Approved April 18, 1990

Time: 6:37 P.M.

Act No. 90-500

H.J.R. 493—Rep. Bryant

## HOUSE JOINT RESOLUTION

## COMMENDING THE REVEREND FREDERICK DOUGLASS CRAIG FOR DISTINGUISHED SERVICE TO THE MINISTRY.

WHEREAS, the Reverend Frederick Douglass Craig, a native of Perry County, Alabama, received his early education at Lincoln School in Marion, and his secondary education at Selma University where he also earned the AB and Doctor of Divinity degrees; and

WHEREAS, Dr. Craig has served as pastor of the Providence Baptist Church in Marion, Alabama, for the past 50 years, while serving simultaneously as pastor of New Hope in Selma for 37 years and St. Union Baptist in Jackson for 27 years; and

WHEREAS, in earlier years, while faithfully and diligently serving the Providence Baptist Church, Dr. Craig also pastored Union, Friendship and Provewell Churches of Marion as well as First Baptist of Gadsden; and

WHEREAS, Dr. Craig further and presently serves the Lord and community as Moderator of the Hopewell Association (31 years); Moderator of New Shady Grove Association (20 years); President of Sunday School BTU Congress of Clarke County; President of the Ministerial Alliance of Selma and surrounding area; Chairman of the Trustee Board of Marion Baptist Academy; Worthy Patron of the Order of Eastern Star, Taylor Pride Chapter 712; Master Mason of Goshen Lodge #132; Vice President of the Southwest Baptist State Convention; and as a member of the Board of Trustees of Selma University; and

WHEREAS, Dr. Craig has and continues to provide his pastorates with opportunities to grow in Christian service, and his qualities of leadership and years of pastoral experience have indeed greatly strengthened his ministry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Reverend Frederick Douglass Craig on his fruitful ministry, and do joyfully celebrate the 50th anniversary of his long and devoted service in Christian love and leadership.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for presentation to the Reverend Frederick Douglass Craig.

Approved April 18, 1990

Time: 6:38 P.M.

Act No. 90-501      H.J.R. 466—Reps. Melton and Johnson (RW)

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HOUSE JOINT RESOLUTION

COMMENDING ROOSEVELT SANDERS OF TUSCALOOSA,  
ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature most heartily congratulates and commends Coach Roosevelt Sanders of Tuscaloosa's Central High School on his 500th career victory when the Central Falcons downed Huffman High, 63-49, in the final round of the Class 6A sub-state playoffs; and

WHEREAS, under Coach Sanders' talented direction, the Falcons then made a clean sweep of the State playoffs to finish the season 30-3 and claim the State 6A Basketball Championship for 1989-90; and

WHEREAS, this year's State Title was the second for Coach Sanders and both were presented by AHSAA executive director Bubba Scott; the first was in 1969 when Coach Sanders was at R. R. Moten High School and was the first state title ever presented by Mr. Scott, and this second title was presented in Mr. Scott's final year with the association; and

WHEREAS, Coach Sanders has indeed had and continues to enjoy an outstanding career, and his many teams over the years, such as his 1989-90 Falcons, have responded to his great coaching ability and leadership by playing with deep intensity, with awareness of all players on the floor, and with genuine pleasure and enjoyment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement, and on his 500th career basketball victory, we hereby commend Coach Roosevelt Sanders of Central High School, Tuscaloosa, Alabama, whom we hold in highest personal regard and to whom a copy of this resolution shall be presented.

Approved April 18, 1990

Time: 6:39 P.M.

Moon, Starkey, Goodwin,  
 Coburn, Carter, Britnell,  
 Dillard, Marks, Parker,  
 Grayson, Richardson,  
 Freeman, Brooks,  
 Sanderford, Logan and Rains

## HOUSE JOINT RESOLUTION

URGING THE PRESIDENT AND U. S. CONGRESS TO SUPPORT THE TENNESSEE VALLEY INTERSTATE HIGHWAY ECONOMIC DEVELOPMENT CORRIDOR.

WHEREAS, the economic welfare, the opportunity and ability to compete in today's domestic and global markets, and the interstate and interregional needs now require that Huntsville and the communities of the great Tennessee Valley be served by an interstate highway system from Memphis to Huntsville to Atlanta and from Huntsville to Chattanooga; and

WHEREAS, the Memphis-Huntsville-Atlanta corridor not only satisfies a high priority for Huntsville and North Alabama, but also serves a need for a direct, non-circuitous interstate route for Atlanta and Memphis; along the corridor are several major Metropolitan Statistical Areas and some of the most highly productive rural areas in the United States; poultry, cotton and cattle being predominant; and

WHEREAS, flowing from Tennessee through Georgia, Alabama and Mississippi, the heavily utilized Tennessee River, with its direct access to deep water via the Tennessee-Tombigbee waterway and the 9000 miles of the Interconnected Inland Waterway System, is without interstate service except for a segment in Tennessee; the Huntsville-Chattanooga Corridor will allow an orderly extension of existing I-81 at Knoxville over I-75 to Chattanooga and then the corridor to Huntsville where it would connect with the Huntsville-Memphis-Atlanta corridor, providing an interstate highway interfacing with almost the total length of the Tennessee River—a necessity if the river and the region it serves is ever to approach its transportation potential; and

WHEREAS, the Alabama Legislature, along with the City of Huntsville welcomes and encourages the cities and counties of North Alabama and the States of Georgia, Mississippi and Tennessee and their affected communities to join in support of these objectives and move they be authorized by Congress in the reauthorization of the Federal-Aid Highway Act, with priority funding from the Federal Highway Trust Fund as administered by the Federal Highway Administration; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge President George Bush and the members of the U. S. Congress to take the necessary actions to fund the establishment and construction of the Tennessee Valley Interstate Highway Economic Development Corridor.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Federal Highway Administration, President George Bush and each member of the Alabama Congressional Delegation.

Approved April 18, 1990

Time: 6:40 P.M.

Act No. 90-503

H.J.R. 468—Rep. Knight

### HOUSE JOINT RESOLUTION

CREATING THE JOINT INTERIM LEGISLATIVE COMMITTEE TO STUDY THE FUNDING AND ALLOCATION OF REVENUES FOR ELEMENTARY/SECONDARY SCHOOLS IN ALABAMA.

WHEREAS, on July 12, 1988, the State Board of Education passed a resolution authorizing the State Superintendent of Education to appoint a Task Force to study the funding and allocation of revenues for elementary/secondary schools in Alabama; and

WHEREAS, such Task Force was appointed and began work in November 1988, and concluded work in March 1990, when it issued its report; and

WHEREAS, such report included fifteen Task Force on Funding recommendations, many of which addressed legislative action; and

WHEREAS, such report included specific legislative proposals; and

WHEREAS, recommendation twelve states, "The Legislature should appropriate funding for the hiring of nationally recognized consultants to develop a new funding program and enact legislation to carry out the recommendations."; and

WHEREAS, the National Conference of State Legislatures has developed expertise and contacts in educational funding and reform through studies in other states; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby

created the legislative joint interim committee to study the funding and allocation of revenues for elementary/secondary schools in Alabama. Said committee shall be composed of seven members appointed by the Speaker of the House of Representatives, three of whom must be members of the House of Representatives and seven members appointed by the Lieutenant Governor, three of whom must be members of the Senate. The committee shall elect its own chairman and vice-chairman at the first meeting of the members of the committee. The committee shall adopt all necessary rules of procedure.

The committee shall contract, through the Legislature, with the National Conference of State Legislatures to conduct a comprehensive study for educational funding/reform.

The committee shall report its findings, conclusions and recommendations, including specific legislation, to the legislature at its organizational meeting in January of 1991, at which time the committee shall be abolished.

Upon the request of the committee chairman, the Secretary of the Senate and the Clerk of the House shall provide clerical and staff assistance as may be necessary for the committee's work. Additional assistance shall be provided by the Legislative Reference Service, the Legislative Fiscal Office, the Department of the Examiners of Public Accounts, or any other public board, commission, committee, agency, or department, including the State of Department of Education.

Each member of the committee shall be entitled to the regular compensation, per diem, mileage, and travel expense for each committee meeting attended. Said money shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee chairman. Provided, however, that legislative members shall not receive additional compensation or per diem when the legislature is in session, but they shall receive their travel expenses for all meetings attended and for any travel upon the business of the committee. The total expenditures of the committee shall not exceed \$15,000.00, excluding any costs increased pursuant to any contracts with the National Conference of State Legislatures.

Approved April 18, 1990

Time: 6:41 P.M.

Act No. 90-504

H.J.R. 469—Reps. Haynes, Johnson (RG)  
and Rains

#### HOUSE JOINT RESOLUTION

COMMENDING WILLIE ANDREW FARRIOR FOR DISTINGUISHED SERVICE TO THE ALABAMA INDUSTRIES FOR



**THE BLIND OF THE ALABAMA INSTITUTE FOR DEAF AND BLIND.**

WHEREAS, Mr. Willie Andrew Farrior has been a faithful employee at the Alabama Industries for the Blind of the Alabama Institute for Deaf and Blind for a period of 40 years; and

WHEREAS, this native of Bullock County, Alabama, who began losing his eyesight at age 13 and was totally blind at the age of 18, attended the Alabama School for the Blind; and

WHEREAS, Mr. Farrior was initially employed with A. F. Hendrix Broom and Mop Company in Phenix City, Alabama, in 1946, and was employed at the Birmingham Broom and Mop Shop in 1948; and

WHEREAS, he came to work at the Alabama Industries for the Blind in June 1950 as a broom winder and, through his hard work, advanced to the position of Training Instructor and further, through his diligent work and dedication, was promoted to Assistant Supervisor in 1981, in which position he is presently serving; and

WHEREAS, he is the father of 9 children, grandfather of 24 children, and great-grandfather of 14 children; and

WHEREAS, he has chosen to retire from employment as of June 30, 1990, and will be sorely missed by the employees at the Alabama Industries for the Blind; and

WHEREAS, he has touched the lives of many blind individuals and his hard work with the Alabama Industries for the Blind has caused this industry to grow, and these are deeds meriting proper recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize and commend Mr. Farrior for his contributions and service to the Alabama Industries for the Blind and to blind individuals all over the State of Alabama, and wish him well in his retirement years.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Willie Andrew Farrior, and that a copy be sent to the Board of Trustees of the Alabama Institute for Deaf and Blind.

Approved April 18, 1990

Time: 6:42 P.M.

Curry, Escott, Gray,  
 McClain, Newton (D),  
 Payne, Perdue, Petelos,  
 Rogers, Slaughter, Spratt  
 and Wright

## HOUSE JOINT RESOLUTION

### COMMENDING E. A. "CASEY" JONES.

WHEREAS, E. A. "Casey" Jones was born in Birmingham and attended Woodlawn High School, graduated from Samford University with a B.A. Degree in Business Administration and served in the U.S. Navy from 1943 until 1946; and

WHEREAS, Mr. Jones served in a managerial capacity at the Tiger Theatre in Auburn, Alabama, and at both the Ritz and Alabama Theatres in Birmingham; and

WHEREAS, he was Manager of the Birmingham Municipal Auditorium from 1960 until 1969 and is now the Executive Director of the Birmingham-Jefferson Civic Center; and

WHEREAS, Mr. Jones is a past vice president and member of the Executive Committee and Board of Directors of the International Association of Auditorium Managers; he was also a member of the Board of Directors of the Birmingham Festival of Arts and the Greater Birmingham Arts Alliance; and

WHEREAS, Mr. Jones is married to the former Betty Johnson and they have two daughters and a son; and

WHEREAS, Casey Jones has been the guiding spirit behind the extraordinary success of the Civic Center complex, showing vision, diplomacy, fairness and extraordinary business acumen; and

WHEREAS, during his years in the auditorium business and in the International Association of Auditorium Managers, Casey has earned the utmost respect of his peers and promoters of events, and has been constantly sought out for advice; he is admired and respected by his employees and inspires great loyalty in each of them; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby heartily commend Mr. E. A. "Casey" Jones for his many years of distinguished service to the Birmingham Municipal Auditorium and Birmingham-Jackson Civic Center.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Jones as a token of our appreciation and respect for him.

Approved April 18, 1990

Time: 6:43 P.M.

Act No. 90-506

H.J.R. 446—Rep. Rains

### HOUSE JOINT RESOLUTION

RECOGNIZING THE 50TH ANNIVERSARY OF SERVICE  
BY SAND MOUNTAIN ELECTRIC COOPERATIVE.

WHEREAS, Sand Mountain Electric Cooperative in July 1940, began serving its first 1,803 customers with electric current, thereby providing the impetus for growth in population and industry for its service area; and

WHEREAS, now providing electricity to more than 23,000 customers in parts of Jackson, DeKalb and Marshall counties, Sand Mountain Electric Cooperative offers a number of other services including the provision of new appliances on a regular basis to all nine area high schools' home economic departments and to the DeKalb County Technical School; and

WHEREAS, further, the Cooperative, through its hot water program, will provide super-insulated water heaters to customers who are building new homes and installing high efficiency heat pumps, among other services offered by SMEC; and

WHEREAS, Sand Mountain Electric Cooperative for the past 50 years, has indeed rendered invaluable and low cost service to its many customers as evidenced by todays' cost of .0542 cents per kilowatt hour which represents an increase of less than three cents over the .0299 cents charged in July 1940; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to its customers in Jackson, DeKalb and Marshall counties for the past 50 years, we hereby most highly commend Sand Mountain Electric Cooperative and do further direct that a copy of this resolution be forwarded to Bill Dobbs, general manager of SMEC.

Approved April 18, 1990

Time: 6:44 P.M.

Act No. 90-507

H.J.R. 452—Rep. Johnson (RW)

### HOUSE JOINT RESOLUTION

#### DESIGNATING “WORKERS MEMORIAL DAY” IN ALABAMA.

WHEREAS, every year more than 10,000 American workers are killed while working on the job—one every 40 minutes—and tens of thousands more are permanently disabled from job related injuries; and

WHEREAS, another 100,000 workers die annually from cancer, lung diseases and other diseases related to toxic chemical exposure in the workplace; and

WHEREAS, among many of the more recent tragedies are the January 1986 explosion of the Challenger spacecraft, resulting in the death of all seven American astronauts aboard, and the April 1987 collapse of a thirteen story building in Bridgeport, Connecticut in which 28 construction workers were killed; and

WHEREAS, in April 1988, rapid decompression peeled the ceiling of a commercial airline, sweeping a flight attendant to her death; in November 1988, three workers were killed on a Milwaukee tunnel project due to a methane gas explosion; also in November 1988, six firefighters were killed in an explosion at a Kansas City construction site; and

WHEREAS, the Concerned Americans are determined to help prevent such tragedies as these by organizing a Workers Memorial Day to remember the victims of workplace injuries and disease, and to thereby focus public awareness on the thousands of needless and preventable deaths occurring each year in our country; and

WHEREAS, Concerned Americans also are renewing efforts to seek stronger safety and health prevention measures for our workers, better standards, and fair and just compensation for job related death, disease and injury; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate April 28, 1990, the anniversary of the Occupational Safety and Health Act of 1970, as “Workers Memorial Day” in the State of Alabama.

Approved April 18, 1990

Time: 6:45 P.M.

Act No. 90-508

H.J.R. 460—Reps. Turner and Breedlove

## HOUSE JOINT RESOLUTION

EXPRESSING OBJECTION TO THE PROPOSED ABANDONMENT BY SOUTHRAIL CORPORATION OF A PORTION OF RAILROAD IN WAYNE AND GREENE COUNTIES IN MISSISSIPPI AND WASHINGTON AND MOBILE COUNTIES IN ALABAMA.

WHEREAS, SouthRail Corporation on December 29, 1989, filed an Application to Abandon pursuant to 49 C.F.R., Section 1152.50, with the Interstate Commerce Commission, Docket No. AB-301 (Sub-No. 6); and

WHEREAS, SouthRail Corporation in its application seeks to abandon its rail line extending from railroad Milepost 4.7 near Whistler Station, Alabama, to railroad Milepost 79.7 near Waynesboro, Mississippi, a distance of approximately 75 route miles in Wayne and Greene Counties, Mississippi, and Washington and Mobile Counties, Alabama; and

WHEREAS, the abandonment sought by SouthRail will sever a vital north-south rail line corridor that runs from Tennessee and Corinth, Mississippi, south to Mobile, Alabama; and

WHEREAS, the severance of this vital north-south rail corridor would not only significantly and adversely impact local shippers presently using the rail corridor, but would also significantly and adversely impact the economic development and growth of local communities, West Alabama and the State of Alabama; and

WHEREAS, the line segment that SouthRail seeks to abandon and the rail corridor that will be severed can be operated profitably when reasonable and proper marketing efforts are used to generate business and traffic flow over the rail line; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby oppose and object to SouthRail Corporation's application to abandon its rail line extending from railroad Milepost 4.7 near Whistler Station, Alabama, to railroad Milepost 79.7 near Waynesboro, Mississippi, in Wayne and Greene Counties, Mississippi, and Washington and Mobile Counties, Alabama, and stand resolved that said application should be denied by the Interstate Commerce Commission.

BE IT FURTHER RESOLVED, That copies of this resolution be furnished to SouthRail Corporation, the Interstate Commerce Commission and to the members of the Capitol Press Corps.

Approved April 18, 1990

Time: 6:46 P.M.

Act No. 90-509

H.J.R. 461—Rep. Bryant

### HOUSE JOINT RESOLUTION

#### COMMENDING REVEREND GILBERT WILLIS FOR OUTSTANDING COMMUNITY SERVICE.

WHEREAS, the Legislature of Alabama, in highest tribute, notes the distinguished service of Reverend Gilbert Willis, a native Alabamian; and

WHEREAS, Reverend Willis, is a man of deep insight, keen discrimination and rare judgement; and

WHEREAS, he struggled to own and operate a school bus to provide transportation enabling not only his children but other children of the community to further their education, as well as provide a means of community transportation for church and town; and

WHEREAS, Reverend Willis is a versatile man, sensitive to the needs of his community, and one who has contributed generously to every worthwhile endeavor for the betterment of his area; and

WHEREAS, a recital of his many accomplishments would be incomplete without the inclusion of the many contributions Reverend Willis has made by initiating a financial recordkeeping system, organizing membership drives, increasing sick and death benefits by pursuing creative strategies for the timely collection of membership dues and organizing and implementing fund raising efforts, which led to the rebuilding of the Pine Grove Union Society Hall in 1982, the cornerstone was laid in 1986, under his administration; and

WHEREAS, he is a man of integrity and dignity, loyal to his friends, devoted to his family and dedicated in his sense of duty and responsibility to his church and state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in commending Reverend Gilbert Willis for outstanding community services and direct that he receive a copy of

this resolution as a warm expression of our warm best wishes for every future success.

Approved April 18, 1990

Time: 6:47 P.M.

Act No. 90-510

H.J.R. 404—Reps. Beasley and Bryant

## HOUSE JOINT RESOLUTION

### COMMENDING DR. NORMAN H. MCCRUMMEN.

WHEREAS, in a desire to recognize Alabamians of outstanding achievement, the Alabama Legislature notes with praise the accomplishments of Dr. Norman H. (John) McCrummen as president of Judson College for the past twenty years; and

WHEREAS, a native Montgomerian, Dr. McCrummen earned the B.S. degree from Mercer University, Summa Cum Laude, Master of Divinity degree from Southern Baptist Theological Seminary, and his D.D. degree from Samford University; and

WHEREAS, Dr. McCrummen, who served pastorates in Atmore, Selma, Birmingham, and Dalton, Georgia, prior to assuming the presidency of Judson in May 1970, has served the college with distinction and under his consummate leadership, Judson College has greatly flourished; and

WHEREAS, during President McCrummen's dedicated and illustrious tenure at the helm of Judson College, the number of graduates have more than doubled over the previous two decades; the construction of many major buildings, including Mead, Archibald and the King Lecture Halls, has been completed; and endowment increased from \$1 million in 1970 to \$3.5 million in 1989; and

WHEREAS, former president of the Association of Southern Baptist Colleges, Dr. McCrummen also has provided leadership in a number of other professional areas and to the community; and

WHEREAS, although President McCrummen is retiring in June 1990, his contributions to Judson College have both substantial and of lasting benefit, and we gratefully acknowledge his long and selfless service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his accomplished tenure at Judson College, we hereby commend

President Norman H. McCrummen, whom we hold in warmest personal regard and for whom a copy of this resolution shall be provided.

Approved April 18, 1990

Time: 6:48 P.M.

Act No. 90-511

H.J.R. 406—Rep. McClain

### HOUSE JOINT RESOLUTION

COMMENDING DON J. BYRD FOR DISTINGUISHED SERVICE TO THE FAIRFIELD CITY SCHOOLS AND COMMUNITY.

WHEREAS, Don J. Byrd, Superintendent of the Fairfield City Schools, will retire on June 30, 1990; and

WHEREAS, Mr. Byrd has the longest tenure as superintendent in the State of Alabama, having served the Fairfield City School System in this capacity from 1970 until 1990; and

WHEREAS, under Mr. Byrd's leadership, the Fairfield City School System was one of the first of the 17 systems in the State of Alabama to become fully accredited by the Southern Association of Colleges and Schools; and

WHEREAS, also under his leadership, the Fairfield City School System has implemented such innovative programs as the No Pass-No Play Rule, Advanced Placement, Programs for the Gifted, Computer Literacy and Computer Assisted Instruction, Drug Awareness Program, and Adopt-a-School Program; and

WHEREAS, in December of 1986, the people of Fairfield voted an additional 15 mill tax for the Fairfield City Schools which is the highest mill tax ever passed in the State of Alabama; and

WHEREAS, as a result of this effort, Don Byrd won the National Award of Honor for outstanding Public Relations in Education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Mr. Byrd for his outstanding contributions to education and to the citizens of Fairfield, and wish for him, his wife, his family and his grandchildren many years of health and happiness.



BE IT FURTHER RESOLVED, That copies of this resolution be sent to Mr. Byrd and his family as a token of our deep appreciation and high regard for his service.

Approved April 18, 1990

Time: 6:49 P.M.

Act No. 90-512

H.J.R. 408—Rep. Black

### HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. A. P. (PALLEE) DELAINE ON THE OCCASION OF THEIR 64TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the 64th Wedding Anniversary, March 26, 1990, of Mr. and Mrs. A. P. (Pallee) Delaine of Cuba, Alabama; and

WHEREAS, in the sight of God, the couple were joined in wedlock on March 26, 1926, in a civil ceremony in Livingston, Alabama, and these two fine people, forsaking all others, have remained in said Holy state for the past 64 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their wedding vows, setting an example to be emulated by all others who, in marriage, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Delaine are the parents of 15 children, 2 deceased, and they are loving grandparents of 33 grandchildren and great grandparents of 37 great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple of Cuba, Alabama, Mr. and Mrs. A. P. (Pallee) Delaine, and wish them many more happy years together in their union blessed by God and their marriage of Christian dedication and morality.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. and Mrs. Delaine that they may know of our congratulations and warm best wishes for the future.

Approved April 18, 1990

Time: 6:50 P.M.

Act No. 90-513

H.J.R. 410—Rep. Bryant

## HOUSE JOINT RESOLUTION

## CONGRATULATING THE FRANCIS MARION HIGH SCHOOL RAMS ON THEIR OUTSTANDING 1989-90 BASKETBALL SEASON.

WHEREAS, in highest commendation, the Alabama Legislature extends congratulations to Coach Woodie Jackson and the Francis Marion High School Rams on their spectacular 1989-90 basketball season and the team's capture of the class 2A State Basketball Championship for the third straight year; and

WHEREAS, under the skillful leadership of Coach Jackson, his Assistant Coach, Anthony Trimble and Trainers, LeTroy Bolden, Rayfield King, Derrick Shaw and Anthony Ford, Francis Marion posted a phenomenal 30-6 overall record, a performance that reflects the dedication and will-to-win spirit of the ferocious Rams; and

WHEREAS, contributing greatly to Francis Marion's 1989-90 season were Rams Jerry Mahann, Willie Shears, Samuel Hollis, Joseph Moore, Lee Andrew Powell, Norman Kelly, Jr., Victor Scott, Kendall Nelson, Alonzo Johnson, Ricky Scott, LaMonte Shaw and Chris Ford; and

WHEREAS, during the 2A State Tournament, which began March 9, 1990, the Rams, in the first round, crushed the North Sand Mountain Eagles in a 117-105 victory, which was a tournament record; in the second round, the Rams handily defeated the Runnin' Bobcats of Beulah High in a 80-65 victory; the final game of the tournament resulted in a resounding win of 90-65 over the Paramount Bobcats; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Woodie Jackson, his staff and Francis Marion High School on their outstanding basketball season, and direct that a copy of this resolution be forwarded to Principal Maxine Coley, for appropriate presentation and school display.

Approved April 18, 1990

Time: 6:51 P.M.

Act No. 90-514

H.J.R. 440—Reps. Perdue, Rogers, Beasley,  
Beers, Biddle, Black, Blake,

Blakeney, Bowling, Box,  
 Breedlove, Britnell, Brooks,  
 Bryant, Bugg, Burke,  
 Buskey (JE), Buskey (JL),  
 Butler, Campbell, Carothers,  
 Carter, Clark (J), Clark (W),  
 Clay, Coburn, Colvin, Cosby,  
 Crow, Curry, Dillard, Drake,  
 Escott, Flowers, Ford, Frazier,  
 Freeman, Fuller, Gaston,  
 Goodwin, Gray, Grayson,  
 Grouby, Gullatt, Hall,  
 Hamilton, Hammett, Harper,  
 Harvey, Haynes, Headley,  
 Higginbotham, Hill, Hogan,  
 Holley, Holmes, Hooper,  
 Johnson (RG), Johnson (RW),  
 Kennedy, Knight, Kvalheim,  
 Laird, Layson, Lindsey,  
 Logan, Marietta-Lyons,  
 Marks, Mathis, McClain,  
 McDowell, McKee, McMillan,  
 Melton, Mikell, Moon,  
 Newman, Newton (C),  
 Newton (D), Parker, Payne,  
 Penry, Petelos, Poole, Rains,  
 Richardson, Sanderford,  
 Seibels, Slaughter, Spratt,  
 Starkey, Thomas, Turner,  
 Turnham, Venable, Walker,  
 Warren, White (F), White (G),  
 White (L), Williams, Willis,  
 Wright and Zoghby

## HOUSE JOINT RESOLUTION

COMMENDING COACH GENE BARTOW AND THE UNIVERSITY OF ALABAMA AT BIRMINGHAM BASKETBALL TEAM.

WHEREAS, the 1989-90 Blazers have furthered the strong tradition that is UAB Basketball, winning 22 games and the program's third Sun Belt Conference (SBC) regular season championship with Blazers Andy Kennedy, Alan Ogg and Barry Bearden being named to the All-Sun Belt second team, and Stanley Jackson and George Wilkerson to the Sun Belt's All-Freshman team; and

WHEREAS, the UAB Basketball program, known nationally for its remarkable success in its 12-year history, has compiled 254 victories, averaging 21 wins per season, and has participated in post-season play ten times in its first 12 seasons of intercollegiate competition; and

WHEREAS, the Blazers have participated in eight NCAA Tournaments (seven consecutive from 1981-87), reaching the Final 16 in 1981 and the Final 8 in 1982; UAB has also participated in two NIT's (1980 and 1989), finishing third in 1989; and

WHEREAS, UAB has had eight 20+ winning seasons; its program was the first team in the State of Alabama to qualify for seven consecutive NCAA Tournaments (1981-87); and the Blazers have won three Sun Belt regular season championships and four Sun Belt Tournament titles, the most by any SBC team; and

WHEREAS, UAB's Gene Bartow is one of the most highly respected coaches in the profession; in 28 seasons as a collegiate head coach, he has recorded an overall record of 536-279 (.657), and 254-130 (.661) at UAB where he has been named SBC Coach of the Year on three occasions; and

WHEREAS, ranked among the top ten active NCAA Division I coaches in terms of victories, Coach Bartow is a member of the Alabama Sports Hall of Fame, as well as the Missouri Basketball Hall of Fame, and his 500+ career victories rank him among the top 50 coaches in the history of collegiate basketball at any level; and

WHEREAS, the UAB Basketball program has meant great things to the City of Birmingham and to Alabama, its meteoric rise bringing the name of UAB and Birmingham before the national media and the public in an extremely positive manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Gene Bartow and the UAB 1989-90 Basketball team and do further express great pride in the many outstanding accomplishments of the Blazers' first 12 seasons.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to Coach Bartow for appropriate presentation and display, and that he and the Blazers may know of our sincere gratitude for the fame and honor the UAB Basketball Program has brought to the University, to Birmingham and to the entire State of Alabama.

Approved April 18, 1990

Time: 6:52 P.M.

Act No. 90-515

H.J.R. 397—Rep. Rains

## HOUSE JOINT RESOLUTION

COMMENDING THOMAS HENDERSON MILLS, OF TUSCALOOSA, ALABAMA, FOR DISTINGUISHED SERVICE.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the numerous and notable contributions of Thomas Henderson Mills of Tuscaloosa, Alabama; and

WHEREAS, a native of Mobile who was blinded as a premature baby, Tom Mills has recently been selected as the 1989 Blind Vendor of the Year; and

WHEREAS, he attended the Florida State School for the Blind in St. Augustine and the Alabama School for the Blind in Talladega; in 1980, Tom Mills graduated from Troy State University with a Bachelor's of Science Degree in Social Science and in 1981, he graduated from the E. H. Gentry Special Technical Facility in Talladega as a trained Business Enterprise Program Operator; and

WHEREAS, for many years, Mr. Mills has worked for the betterment of the blind citizens of Alabama and was instrumental in the development of programs for the mainstreaming of blind children in the public schools; and

WHEREAS, he is an active member of the National Federation of the Blind of Alabama and has been a Board Member, Vice President and President of the Alabama Chapter of the National Federation of the Blind, which is the nation's foremost consumer organization in promoting the security, equality and opportunity of blind citizens of Alabama and the nation; and

WHEREAS, his efforts have led to sweeping improvements in working conditions and better pay for blind workers in Alabama's Sheltered Workshops; he is one of the most knowledgeable and informed experts in Social Security Programs as they relate to blind citizens; and

WHEREAS, Tom and his loving wife Annette Olive Mills are the devoted parents of two daughters, Mary Lauren and Melissa Belle; and

WHEREAS, Mr. Mills has indeed provided outstanding leadership, marked with distinguished accomplishments that have benefited many citizens of our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily

commend Thomas Henderson Mills of Tuscaloosa, Alabama, upon his well-deserved selection as the 1989 Blind Vendor of the Year Award, and direct that a copy of this resolution be provided to Mr. Mills as evidence of our high esteem and warmest personal regard.

Approved April 18, 1990

Time: 6:53 P.M.

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Act No. 90-516

H.J.R. 398—Rep. Rains

### HOUSE JOINT RESOLUTION

COMMENDING LLOYD DARNELL OF GUNTERSVILLE, ALABAMA, ON HIS DISTINGUISHED CAREER.

WHEREAS, Lloyd Darnell of Guntersville, Alabama, and manager of the Albertville Mueller Plant, has been honored by the Mueller Company in recognition of forty years of loyal and dedicated service; and

WHEREAS, a native of Illinois, Mr. Darnell was educated in the schools of Shelbyville, Illinois, and joined the Mueller Company February 10, 1950, at the age of 17, as a shipping clerk with the Decatur, Illinois, plant where he held various positions before being transferred to Brea, California, as the manager of the Mueller plant in that location; and

WHEREAS, Mr. Darnell, upon the closing of the Brea plant in 1976, was transferred to his present managerial position of the Albertville Mueller Plant which currently has more than 500 employees; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Lloyd Darnell of Guntersville, Alabama, on his lengthy and accomplished career with the Mueller Company and do further direct that he receive a copy of this resolution that he, his wife Rosemary, their two sons and four grandchildren may know of our sincere praise and highest regard.

Approved April 18, 1990

Time: 6:54 P.M.

Act No. 90-517

H.J.R. 399—Reps. Holley and Rains

## HOUSE JOINT RESOLUTION

EXPRESSING GRATITUDE TO HANK WILLIAMS, JR., FOR HIS GENEROUS OFFER OF ASSISTANCE TO VICTIMS OF THE MARCH 1990 FLOODS IN ALABAMA.

WHEREAS, the torrential rains and resultant flooding, which occurred recently in counties throughout the State, left thousands of Alabamians homeless; and

WHEREAS, the unfortunate victims of a raging natural disaster, whose possessions were totally destroyed or severely damaged, have in many instances been left destitute and without means to replace their tremendous losses and start anew; and

WHEREAS, fortunately, however, many hearts have been opened to these victims; help has been forthcoming from many sources, and from a number of individuals including Hank Williams, Jr., who has offered to donate the proceeds from one of his concerts to help clothe, feed and provide housing for the many Alabamians in need; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on behalf of the State and all citizens thereof, we hereby express deepest appreciation to Hank Williams, Jr., for his generous offer of assistance to victims of the March 1990 floods in Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Williams that he may know of our sincere gratitude for his expansive benevolence, and of the pride we share as Alabamians in his accomplishments and those of his father.

Approved April 18, 1990

Time: 6:55 P.M.

Act No. 90-518

H.J.R. 400—Rep. Breedlove

## HOUSE JOINT RESOLUTION

COMMENDING MADISON KYM PITTMAN FOR DISTINGUISHED SERVICE TO WASHINGTON COUNTY.

WHEREAS, it is with a sense of great pride that the Alabama Legislature notes that Madison Kym Pittman, of Washington County,

was recently selected 1990 Volunteer of the Year for Washington County by the Mobile-Washington United Way; and

WHEREAS, all communities depend heavily upon citizen volunteers to enrich the public good, and to enhance the way of life far beyond the limitation of available public funds; and

WHEREAS, among his numerous contributions, he is President of the Washington County Firefighters Association; Fire Chief of the McIntosh Volunteer Fire Department; Second Lieutenant in the McIntosh Rescue Squad and past member of its board of directors; member of the Board of Directors of the Alabama Association of Volunteer Fire Departments and member of the District 8 Board; member of the Ciba-Geigy Hazardous Materials Team, having been trained in all aspects of chemical spills and fires; and is a member of OCAW Local No. 3562 at Ciba-Geigy Corporation, where he has been employed for 25 years; and

WHEREAS, he and his wife of twenty-five years, Marsha, are the devoted and loving parents of three children, Marty, Gina and Chad; and

WHEREAS, Mr. Pittman has indeed provided outstanding leadership, marked with distinguished accomplishments that have benefited many citizens of the community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Madison Kym Pittman of Washington County, upon his well-deserved selection as the recipient of the 1990 Volunteer of the Year Award, and direct that a copy of this resolution be provided to Mr. Pittman as evidence of our high esteem and warmest personal regard.

Approved April 18, 1990

Time: 6:56 P.M.

Act No. 90-519

H.J.R. 402—Rep. Bowling

#### HOUSE JOINT RESOLUTION

COMMENDING HUBERT HECK FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT AND SERVICE TO EDUCATION AND COMMUNITY.

WHEREAS, Hubert Heck, a native of West Point community, a graduate of West Point High School and a distinguished United



States Army veteran of World War II, obtained the B.S. degree from Florence University and a Master's degree from Peabody College; he also completed graduated studies at Peabody and at Vanderbilt University, and holds A.A. certification from the University of Alabama; and

WHEREAS, a prominent and dedicated educator, Mr. Heck rendered invaluable service to the schools and youth in the State of Alabama for more than three decades, including the years 1949 to 1972, during which period he served as principal of Welts School in Cullman County, Good Hope School, Hanceville School, Northside High School in Tuscaloosa and Dowling School in Crane Hill; and

WHEREAS, from 1972 and for the next succeeding eleven years prior to retirement, Mr. Heck distinguished himself in administrative capacity at Cullman High School and Cullman Middle School for nine and two years respectively; and

WHEREAS, Mr. Hubert Heck is indeed to be praised for the dedication and accomplishments of his lengthy tenure and for his many contributions in service both to education and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished professional achievement and service to the schools and communities in the State of Alabama, we hereby commend Hubert Heck, whom we hold in warmest personal regard and to whom a copy of this resolution of highest honor shall be presented.

Approved April 18, 1990

Time: 6:57 P.M.

Act No. 90-520

H.J.R. 464—Reps. Flowers, Buskey (JL),  
Holmes and Cosby

### HOUSE JOINT RESOLUTION

DIRECTING THE BUREAU OF TOURISM AND TRAVEL  
TO ERECT A MARKER MEMORIALIZING REPRESENTATIVE  
JOHN LEWIS.

WHEREAS, in a continuation of a long line of distinguished native born Alabamians serving in the U. S. Congress, Representative John Lewis ably represents the 5th U.S. Congressional District of the State of Georgia; and

WHEREAS, Representative Lewis was born in Pike County Alabama, and educated in the Brundidge public schools, using his humble background as a foundation for a remarkable career of public service on behalf of all citizens of this nation; and

WHEREAS, John Lewis has worked diligently and unrelentlessly for the betterment of all people and his efforts and sacrifices have improved the lives of Alabamians and all Americans; and

WHEREAS, this Alabamian's accomplishments should be recognized, so that future generations may learn of his achievements and the present generation of young people may realize the unlimited potential every individual has within himself; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby request that the Alabama Bureau of Tourism and Travel erect a marker memorializing the distinguished career of Congressman John Lewis on Galloway Road in Brundidge, Alabama. The Bureau of Tourism and Travel is urged to obtain funds for the cost of said marker from all permissible sources. The exact location of the marker and the written content of the marker shall be determined by the state House of Representatives' member who represents the city of Brundidge.

BE IT FURTHER RESOLVED, That copies of this resolution be delivered to the Bureau of Tourism and Travel and to Representative Lewis.

This Act became a law under Section 125 of the Constitution on April 19, 1990 without approval by the Governor.

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Act No. 90-521

S.J.R. 193—Senator Drinkard

### SENATE JOINT RESOLUTION

#### ESTABLISHING THE JOINT INTERIM COMMITTEE ON HEALTH.

WHEREAS, the issues of access to health care, quality of health care, and the financing of health care are of great importance to the State of Alabama its citizens; and

WHEREAS, the problems are complex and directly bear on every other facet of our lives; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby established the Joint Interim Committee on Health, comprised of

ten members of the Legislature, with five (5) appointments from each chamber respectively made by the speaker of the House and the Lieutenant Governor. It shall be the duty of the committee to analyze: 1) the current status of the access to health; 2) the current quality of health care; and 3) the current cost of health care, and the related issues therefor.

RESOLVED FURTHER, That each member of the committee shall be entitled to his or her regular legislative compensation, per diem and actual travel expenses, within and without the State of Alabama, for each day attending meetings or in conducting business of the committee which shall be paid out of funds appropriated to the use of the Legislature on warrants drawn on the state comptroller upon requisition signed by the committee's chairman. Provided, however, no per diem or travel shall be paid on days the legislature meets. The chairman shall certify the amounts due to the clerk of the committee. The total amount of all funds expended by the committee for its operations and expenses shall not exceed \$12,000.

BE IT FURTHER RESOLVED, That the committee shall select its own chairman and co-chairman and shall establish its own rules for conducting its business. The Clerk of the House and the Secretary of the Senate shall provide clerical assistance and supplies as needed and all appropriate departments and agencies of state government shall provide such technical assistance and data as the committee requires.

RESOLVED FURTHER, That the committee shall report its findings and make its recommendations to the legislature on the fifth legislative day of the 1991 Regular Session whereupon it shall stand discharged from any further duties or obligations and be dissolved.

Approved April 19, 1990

Time: 3:00 P.M.

Act No. 90-522

H. 388—Rep. Turnham

### AN ACT

To provide for an additional cost-of-living increase to certain retirees and beneficiaries receiving a monthly benefit from the employees' retirement system of Alabama; to provide that no person whose retirement under the employees' retirement system is based on 51 percent or more service as an employee of an employer participating under section 36-27-6, Code of Alabama 1975, shall be entitled to receive said increase unless the employer by which he was employed at the time of his retirement elects to come under the provisions of this act; to provide further for an adjustment in said increase for beneficiaries and for those retirees who elected a monthly survivor option;

to provide for the funding of such benefits; and to provide that no person shall be entitled to receive the benefits granted herein if receipt of such will jeopardize such person's eligibility to receive medicaid benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby provided, commencing October 1, 1990, to each person except persons whose employer participated in the employees' retirement system pursuant to sections 36-27-6, 36-27-7 or 36-27-7.1, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the employees' retirement system is prior to October 1, 1989, and to beneficiaries of deceased members or deceased retirees except where the deceased member or deceased retiree retired from an employer participating in the employees' retirement system pursuant to sections 36-27-6, 36-27-7 or 36-27-7.1, Code of Alabama 1975, provided the date of death for such deceased member or the effective date of retirement for such deceased retiree for purposes of receiving benefits from the employees' retirement system was prior to October 1, 1989, and who is receiving a monthly allowance from the employees' retirement system a cost-of-living increase as follows:

(1) \$1.00 per month for each year of service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree for each retiree selecting the maximum retirement allowance or Option I.

(2) \$1.00 per month for each year of service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree reduced by the retiree's option election factor for each retiree selecting Options II, III or IV.

(3) \$1.00 per month for each year of service attained by said deceased member or deceased retiree plus \$3.00 per month for each year since the date of death of such deceased member or in the case of a deceased retiree since his effective date of retirement reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the employees' retirement system.

**Section 2.** There is hereby provided to each person whose employer elects to come under the provisions of this act and whose retirement is based on 51 or more percent service to an employer participating under section 36-27-6, Code of Alabama 1975, and whose effective date of retirement for purposes of receiving benefits from the employees' retirement system is prior to October 1, 1989, and to certain beneficiaries of deceased members and deceased retirees of such employers, provided the effective date of death or retirement for such deceased retiree or deceased member for purposes of receiving benefits from the employees' retirement system was prior to October

1, 1989, and who is receiving a monthly allowance from the employees' retirement system a cost-of-living increase as follows:

(1) \$1.00 per month for each year of service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree for each retiree selecting the minimum retirement allowance or Option I.

(2) \$1.00 per month for each year of service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree reduced by the retiree's option selection factor for each retiree selecting Option II, III or IV.

(3) \$1.00 per month for each year of service attained by said deceased member or deceased retiree plus \$3.00 per month for each year since the date of death of such deceased member or in the case of a deceased retiree since his effective date of retirement, reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the employees' retirement system.

**Section 3.** There is hereby provided, commencing October 1, 1990, to each person whose employer participated in the employees' retirement system pursuant to sections 36-27-7 or 36-27-7.1, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the employees' retirement system is prior to October 1, 1989, and to certain beneficiaries of deceased members and deceased retirees of such employers, provided the effective date of retirement or death for such deceased retiree or deceased member for purposes of receiving benefits from the employees' retirement system was prior to October 1, 1989, and who is receiving a monthly allowance from the employees' retirement system a cost-of-living increase as follows:

(1) \$.50 per month for each year of service attained by said retiree plus \$1.50 per month for each year of retirement attained by said retiree for each retiree selecting the maximum retirement allowance or Option I.

(2) \$.50 per month for each year of service attained by said retiree plus \$1.50 per month for each year of retirement attained by said retiree reduced by the retiree's option selection factor for each retiree selecting Option II, III or IV.

(3) \$.50 per month for each year of service attained by said deceased member or deceased retiree plus \$1.50 per month for each year since the date of death of such deceased member or in the case of a deceased retiree since his effective date of retirement, reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the employees' retirement system.

**Section 4.** The survivor allowance shall be adjusted as provided in section 1 (3) for those eligible retirees who have selected a monthly survivor allowance payable to a designated beneficiary upon the death of such retiree.

**Section 5.** (a) The board of control of the employees' retirement system shall determine annually the amount required to pay the cost of the increased allowance provided under sections 1 and 3 of this act and shall notify the chief fiscal officer of each employer the percentum rates of earnable compensation of the members required to be paid to the retirement systems. Each employer of members of the employees' retirement system of Alabama shall pay on account of the increases provided in sections 1 and 3 in the same manner and from the same source of funds as provided in sections 36-27-24 and 36-27-7, Code of Alabama 1975, it being the intent of the legislature that the cost of providing the increases in sections 1 and 3 of this act shall be distributed from all funds in proportion to the salaries paid therefrom for active members.

(b) No person whose retirement is from a unit participating under section 36-27-6, Code of Alabama 1975, shall be entitled to the increased benefits provided in section 2 of this act, unless such employer elects to come under the provision of said section. Any employer making such election must bear the cost of cost-of-living increases paid to its former employees pursuant to this section. Any employer participating under section 36-27-6, Code of Alabama 1975, may elect to come under the provisions of this section at the beginning of any subsequent fiscal year and such employer shall not be required to pay said cost-of-living increase retroactively.

**Section 6.** Any person who receives benefits under the medicaid program and whose eligibility for such benefits would be impaired by the cost-of-living increase provided herein shall not be entitled to receive said increase. Any person who shall subsequently apply for benefits under the medicaid program and such person's eligibility to receive benefits is impaired by the cost-of-living increase provided herein, shall not be entitled to receive said increase subsequent to the date that the member files application for benefits under the medicaid program.

**Section 7.** The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating and providing for the payment of retirement benefits to the retired members of the employees' retirement system; however, those laws or parts of laws which are in direct conflict or inconsistent therewith are hereby repealed to the extent of such conflict.

**Section 8.** This act shall become effective October 1, 1990, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:02 P.M.

Act No. 90-523

H. 55—Rep. Black

### AN ACT

Relating to Livingston University; amending section 16-53-2 of the Code of Alabama 1975, to clarify the authority and control of the board of trustees over capital improvements on the campus.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-53-2 of the Code of Alabama 1975, is hereby amended to read as follows, viz:

“§16-53-2.

“Such corporation shall have all the rights, privileges and franchises necessary to the promotion of the ends of its creation, and shall be charged with all corresponding duties, liabilities and responsibilities. Such corporation may hold and may lease, sell or, in any other manner not inconsistent with the object or terms of the grant or grants under which it holds, dispose of any property, real or personal, or any estate or interest therein remaining, of any grant by any governmental unit or by any person, or accruing to the corporation from any source, as it may deem best for the purposes of the university.

“The board of trustees shall have the exclusive authority over and jurisdiction of buildings and other capital improvements now existing on or hereinafter provided for said campus. No contract for capital improvements, alterations, remodeling and changing of capital improvements shall be made without the authorization and approval of the board of trustees, and which approval shall be granted by appropriate resolutions of said body. Any contract, agreement or other act relating to capital improvements shall be void and of no effect unless authorized by resolutions of said board. This shall include the making of change orders, alterations and all other matters concerning the construction of or improvements to buildings located on said campus, except such changes and alterations as involve an expenditure of less than \$5,000.00 and expenditures for repair and maintenance.

All acts of Livingston University lawfully done prior to January 15, 1990, by the board of trustees or by the executive officer, are hereby approved, ratified and confirmed."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:04 P.M.

Act No. 90-524

H. 113—Reps. Hooper, Campbell, Zoghby, Clark (J), Thomas, Poole, Fuller, White (L), Kvalheim, Freeman, Haynes, Goodwin, Bryant, Box, Gaston, Blakeney, Cosby and Flowers

### AN ACT

To authorize the state treasurer to negotiate and contract with financial institutions to allow the state to be the sponsoring entity for a financial institution credit card; to provide for the disposition of the proceeds of the fees negotiated by the treasurer in exchange for being a sponsoring entity; and authorizing the promulgation of rules and regulations by the treasurer which are necessary to implement the provisions of this act; and providing for a supplemental appropriation from the state general fund and the special educational trust fund to the state treasurer's office in order to defray administrative costs incurred with the implementation of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise:

- (a) Treasurer. The state treasurer of Alabama.
- (b) Financial Institution. Any bank, savings and loans association or credit union operating in Alabama which is chartered under federal or state statutes.
- (c) Financial Institution Credit Card. A credit card that entitles the holder to make open-account purchases up to an approved amount and which is issued through a financial institution.
- (d) Sponsoring Entity. An entity, including specifically the state of Alabama, which solicits the use of a particular financial institution credit card bearing the entity's name in exchange for a fee from the credit card issuer.



(e) State Fees. All monies generated from this program that are remitted to the State of Alabama.

**Section 2.** The state treasurer is hereby authorized to participate in a financial institution credit card program for the benefit of the state. Within 180 days of the effective date of this act, the treasurer shall contact as many financial institutions as, in the treasurer's discretion is necessary, to determine if:

(a) the financial institution or its holding company or affiliate currently administers a credit card program;

(b) the credit card program provides a fee or commission on retail sales to the sponsoring entity for the issuance and use of the credit card; and

(c) the credit card program would accept the state as a sponsoring entity.

**Section 3.** (a) If the treasurer determines that the state may be a sponsoring entity for a financial institution credit card, he shall negotiate and contract for the most favorable rate of return for the state's fee by a credit card issuer. The state may not offer a more favorable rate to any one credit card issuer over another. The rate must be expressed as a percentage of the gross sales from the use of the credit card.

(b) In participating in a credit card program, the state treasurer may contract with any number of financial institutions in order to establish the state as a sponsoring entity.

(c) There shall be only one official state sponsored credit card at any given time, and it shall be the official state sponsored credit card authorized by this act. It is provided further that the card issuer is authorized to use the official state seal and insignia on said official card.

(d) The state shall not contract to assume any liability for lost or stolen credit cards, nor any other legal debt owed to the financial institutions.

(e) The treasurer is specifically authorized to extend any contract with a financial institution or institutions previously selected for the credit card program.

**Section 4.** In order to help defray the administrative costs incurred in the implementation of this act, there is hereby appropriated to the treasurer's office the supplemental amount of \$5,000.00 from the state general fund and the supplemental amount of \$5,000.00 from the special educational trust fund for the fiscal year ending September 30, 1990.

**Section 5.** The net proceeds of the state fees shall be distributed as follows:

(a) 25% to the state child abuse and neglect prevention board for its operating fund;

(b) 25% to the state department of human resources to be used exclusively for child abuse programs of the department;

(c) 25% to the Penny Trust Fund proposed by Acts No. 89-462, S. 308, 1989 Regular Session (1989 Acts, p. 1325) and Act No. 89-667, S. 309, 1989 Regular Session (1989 Acts, p. 1325); and

(d) 25% to the state treasurer's office to be used exclusively for the purchase of prepaid tuition contracts from the Wallace-Folsom Prepaid College Trust Fund program, established by Sections 16-33C-1 through 16-33C-8, Code of Alabama 1975, primarily for the benefit of qualified foster children of this state. The Board of Trustees of the Wallace-Folsom Prepaid College Tuition Trust Fund shall set qualifications, procedures, rules and regulations for selecting qualified beneficiaries of the prepaid tuition contracts and shall select qualified beneficiaries for these prepaid tuition contracts. In the event said Acts 89-462 and 89-667 are not ratified and do not become legally effective, the net proceeds shall be divided evenly to the board, department and the state treasurer's office for the uses set out in subsections (a) (b) and (d) above.

**Section 6.** The state treasurer is hereby authorized to adopt such rules and regulations as may be necessary to implement the Alabama state-sponsored credit card program. The rules may include, without limitation, provisions governing the procedures for contacting financial institutions to determine if they would accept the state as a sponsoring entity for a credit card program and for negotiating, and collecting, the rate for the state's fee.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:05 P.M.

Act No. 90-525

H. 326—Rep. Cosby

## AN ACT

Relating to the sale of alcoholic beverages in this state; to create the "Alabama Responsible Vendor Act"; to provide legislative intent and definitions; to require the state alcoholic beverage control board to establish a responsible vendors program; to provide for the certification and renewal of participating vendors; to provide for the revocation or suspension of certification and to prescribe qualifications for participation; to provide for exemption from license suspension or revocation by the board for certified vendors for certain violations by their employees; to provide for mitigation of administrative penalties for certain beverage law violations by employees; to impose a fee on certain licenses of the alcoholic beverage control board in order to fund the requirements of this act; and to provide an effective date of 12:01 a.m., October 1, 1990 for the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act may be cited as the "Alabama Responsible Vendor Act."

**Section 2.** It is the intent of the legislature through the provisions of this act:

(a) To eliminate the sale of alcoholic beverages to, and consumption of alcoholic beverages by underaged persons;

(b) To reduce intoxication and to reduce accidents, injuries, and deaths in the state which are related to intoxication; and

(c) To encourage alcoholic beverage vendors to be prudent in their selling practices and to restrict or reduce the sanctions that may be imposed in administrative proceedings by the alcoholic beverage control board against those vendors who comply with responsible practices in accordance with this act.

**Section 3.** The following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) Board. The alcoholic beverage control board of the state of Alabama.

(2) Vendor. A person who is licensed by the board to sell alcoholic beverages for on-the-premises consumption and/or for off-the-premises consumption.

**Section 4.** The alcoholic beverage control board (the board) shall establish or cause to be established a responsible vendors program designed to encourage vendors and their employees and customers to treat alcoholic beverages in a responsible manner. The program must include, without limitation, comprehensive instruction

on the prevention of the sale of alcoholic beverages to persons not of legal age.

**Section 5.** (a) A vendor who seeks to qualify as a responsible vendor must provide to the board, pursuant to procedures adopted by the board, evidence of compliance with the requirements of this act. Upon satisfactory proof that the vendor had complied with the requirements, the board shall certify the vendor as a responsible vendor. Certification as a responsible vendor shall be renewed annually.

(b) The division shall adopt rules and regulations for monitoring compliance by certified vendors and for revoking or suspending a vendor's certification for noncompliance with this section. The board is hereby authorized to utilize non-law enforcement personnel to monitor and enforce compliance with this section.

**Section 6.** In order to qualify for certification, the vendor shall comply with the following requirements:

(a) Provide a course of instruction for its employees approved by the board which shall include subjects dealing with alcoholic beverages as follows:

(1) Laws regarding the sale of alcoholic beverages for on-the-premises consumption and/or for off-the-premises consumption;

(2) Methods of recognizing and dealing with underage customers; and

(3) The development of specific procedures for refusing to sell alcoholic beverages to underage customers; for assisting employees in dealing with underage customers; and for dealing with intoxicated customers.

(b) Require each employee who is authorized to sell alcoholic beverages in the normal course of his or her employment to complete the employee training course set out in subsection (a) hereof within 30 days of commencing employment;

(c) Require all such trained employees to attend additional meetings at least semiannually or such other schedule of meetings as may be approved by the board, which meetings shall include the dissemination of existing and new information covering the applicable subjects specified in this section and explaining the vendor's policies and procedures relating to those subjects;

(d) Maintain employment records of the training of its employees required by this section; and

(e) Post signs on the vendor's premises informing customers of the vendor's policy against selling alcoholic beverages to underaged persons.

**Section 7.** (a) The license of a vendor certified as a responsible vendor under this act may not be suspended or revoked for an employee's illegal sale of an alcoholic beverage to a person who is not of lawful drinking age if the employee had completed the applicable training prescribed by this act prior to committing such violation, unless the vendor had knowledge of the violation or should have known about such violation, or participated in or committed such violation. No vendor may use as a defense to decertification the fact that he was absent from the licensed premises at the time of noncompliance with this section.

(b) The board shall consider certification by a vendor in the responsible vendors program in mitigation of administrative penalties or fines for an employee's illegal sale of an alcoholic beverage to a person who is not of lawful drinking age.

**Section 8.** There is hereby imposed on each licensee of the board who is licensed and applies for certification as a responsible vendor for the sale of alcoholic beverages for on-the-premises consumption and/or off-the-premises consumption a fee of \$35.00 payable upon the issuance or renewal of such license. This amount is appropriated in addition to the general appropriation for the ABC Board. Any unexpended sums remaining at the end of the fiscal year shall not revert to the general fund, but shall continue to be preserved for the administration of the program.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall become effective at 12:01 a.m., October 1, 1990.

Approved April 19, 1990

Time: 3:07 P.M.

Buskey (JL), Knight,  
Freeman and Turner

## AN ACT

To amend Section 31-5-3, Code of Alabama 1975, which establishes the State Board of Veterans' Affairs, so as to provide for the appointment of a representative of the Vietnam Veterans of America to the Board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 31-5-3, Code of Alabama 1975, is hereby amended to read as follows:

“§31-5-3.

“(a) The state board of veterans' affairs shall consist of the governor, as chairman, and representatives, to serve for a term of four years from the date of their respective appointments, who shall be selected from the memberships of the Alabama department of the American Legion, the United Spanish American War Veterans, the Veterans of Foreign Wars, the Disabled American Veterans, Veterans of WWI of the USA Incorporated, the Vietnam Veterans of America, AMVETS and American Ex-Prisoners of War, Incorporated, the nomination of such representatives to be made by the executive committees or similar governing bodies of the respective organizations on the following ratio of said membership as existing on July 1 of the year in which they shall be appointed, said appointment to be made by the governor: There shall be one representative from each of said organizations for the first 7500 resident members or fraction thereof, and one additional representative from each such organization for each additional 7500 resident members or fraction thereof, the total memberships of the respective organizations to be determined as of July 1 of the year in which such representatives shall be designated from the state enrollment of such organization, duly verified as correct by the adjutant or similar officer of said organization; provided, that the executive committees or similar governing bodies of the above-named organizations shall each nominate to the governor three veterans who are members of such organizations, for each place on the board to which said organizations are entitled; provided further, that said nominations shall include, in representative proportions, veterans of every war which are included in the membership of said organizations. The said board shall have authority to grant representation thereon, and on the same basis of membership as provided in this section, to any organization of veterans of the second World War having a national charter authorized by an act of congress and operating through local organizations in Alabama.

“(b) The state board, in conference with the state service commissioner, shall be responsible for the adoption of policies, rules and

regulations for its government and for the government of the department of veterans' affairs.

“(c) The state board, subject to the provisions of section 31-5-6, shall have and exercise all rule-making powers of the department, and from time to time make such regulations not inconsistent therewith or with state law, as it shall deem necessary for carrying out the provisions of this chapter, and from time to time may alter, repeal or amend such regulations or any of them. This rule-making power shall include the establishment and promulgation of rules and regulations, including amendments and repeals thereof, with respect to the manner of performance of all functions and duties of the department and the various officers and employees thereof, including the selection and appointment of all service commissioners. All said rules and regulations shall be furnished to the personnel board, and in accordance therewith a list of eligibles shall be established therefrom. Competition for places on the eligible lists shall be limited to persons meeting qualifications and requirements set up in such rules and regulations. Such rules and regulations shall have the force and effect of law and prima facie evidence thereof may be given in all courts and proceedings by the production of what purports to be an official printed copy of such regulations, alterations, repeal or amendment.

“(d) The state board shall have the power, and it shall be its duty, to fix the salaries and minimum standards of service and personnel of all service commissioners, and subject to the state merit system, where applicable, to fix salaries and minimum standards of service and personnel, according to the schedules and rules prescribed by the state personnel board, of other employees and personnel.

“(e) The state board shall hold meetings at times and places to be prescribed by rules of the state board or as may be designated by the chairman.

“(f) The presence of a majority of the members at any regular or special meeting shall constitute a quorum for the transaction of all business.

“(g) Members of the state board shall be entitled to a per diem, not exceeding \$25.00 per day, to be fixed by the board, and the amount of their traveling and other necessary expenses actually paid out while in attendance at the meetings of the state board or on the business of the state department.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:08 P.M.

Act No. 90-527

H. 179—Reps. Slaughter and Campbell

## AN ACT

To amend and reenact Article one, Chapter six of Title eight of the Code of Alabama 1975, as amended, so as to revise the "Securities Act of Alabama"; to amend Sections 8-6-56 and 8-6-57 of the Code of Alabama 1975, so as to provide further for the Securities Commission by increasing the salary range of certain employees; and to provide that this bill will become effective January 1, 1991.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Article one of Chapter six of Title eight, Code of Alabama 1975, as amended, is hereby amended and reenacted as follows:

"§8-6-1.

"This article may be cited as the 'Alabama Securities Act.'"

"§8-6-2.

"When used in this article, unless the context otherwise requires, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) COMMISSION or SECURITIES COMMISSION. The securities commission.

"(2) AGENT. Any individual other than a dealer who represents a dealer or issuer in effecting or attempting to effect sales of securities, but such term does not include an individual who represents an issuer in:

"a. Effecting a transaction in a security exempted by subsections (1), (2), (3), (4), (9) or (10) of section 8-6-10;

"b. Effecting transactions exempted by section 8-6-11; or

"c. Effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

"A partner, officer or director of a dealer or issuer is an agent if he otherwise comes within this definition.

"(3) DEALER. Any person engaged in the business of effecting transactions in securities for the account of others or for his own account. Such term does not include:

"a. An agent, issuer, bank, savings institution, savings and loan association, credit union or trust company, or



"b. A person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions and other dealers.

"(4) GUARANTEED. Guaranteed as to payment of principal, interest or dividends.

"(5) ISSUER. Every person who proposes to issue, has issued or shall hereafter issue any security. Any person who acts for a compensation or a consideration as a promoter for or on behalf of a corporation, trust, unincorporated association or partnership of any kind to be formed shall be deemed to be an issuer.

"(6) NONISSUER. Not directly or indirectly for the benefit of the issuer.

"(7) PERSON. Such term shall include a natural person, a corporation created under the laws of this or any other state, country, sovereignty or political subdivision thereof, a partnership, an association, a joint-stock company, a trust and any unincorporated organization. As used herein the term 'trust' shall not include a trust created or appointed under or by virtue of a last will and testament, by instrument of declaration or appointment by any person for the benefit of himself, relatives, friends, servants or employees, by a court or any public charitable trust.

"(8) SALE, SELL, OFFER and OFFER TO SELL. 'Sale' and 'sell' includes every contract of sale of, contract to sell or disposition of a security or interest in a security for value. 'Offer' or 'offer to sell' includes every attempt to offer or dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

"(9) SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, and INVESTMENT ADVISERS ACT OF 1940. The federal statutes of those names as amended at any time.

"(10) SECURITY. Any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate,

preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, annuity contract unless issued by an insurance company, bankers' shares, trustees' shares, investment participating bonds, investment trust debentures, units, shares, bonds and certificates in, for, respecting or based upon any form of securities or collateral, subscriptions and contracts covering or pertaining to the sale or purchase on the installment plan of any security as herein defined, or subscription or contracts covering or pertaining to the sale or purchase of beneficial interest in title to property, profits or earnings, or any right to subscribe to any of the foregoing or any instrument of any kind commonly known as a security.

"(11) **STATE.** Any state, territory or possession of the United States, as well as the District of Columbia and Puerto Rico.

"(12) **UNDERWRITER.** A person who agrees to take or contracts to dispose of a stipulated amount of securities, or a portion thereof, at a fixed price.

"(13) **BROKER.** A dealer, as hereinabove defined.

"(14) **SUSPEND.** When used in relation to the registration of either a security, a dealer, an investment adviser, an agent, or an investment adviser representative, such term shall mean the temporary cessation or inoperativeness of such registration, whether by reason of operation of law or by reason of an order of the securities commission.

"(15) **REVOKE.** To vacate the registration of either a security, a dealer, an investment adviser, an agent, or an investment adviser representative for cause by order of the securities commission.

"(16) **CANCEL.** To terminate the registration of either a security, a dealer, an investment adviser, an agent, or an investment adviser representative upon application filed therefor as follows:

"a. In the case of a security, upon application therefor filed by the issuer thereof or the person who secured the registration of said security;

"b. In the case of a dealer, upon the application therefor filed by such dealer;

"c. In the case of an investment adviser, upon the application therefor filed by such investment adviser;

"d. In the case of an agent, upon the application therefor filed by either the issuer or dealer employing such agent; and

"e. In the case of an investment adviser representative, upon application therefor filed by the investment adviser employing such investment adviser representative.

"(17) FRAUD, DECEIT and DEFRAUD. These terms are not limited to common-law deceit."

"(18) INVESTMENT ADVISER. 'Investment adviser' means any person, who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. 'Investment adviser' also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. 'Investment adviser' does not include: (a) an investment adviser representative; (b) a depository institution, which term includes a person organized, chartered or holding an authorization certificate under the laws of this state or the United States which authorizes the person to receive deposits including a savings, share, certificate, or deposit account, and which is supervised and examined for the protection of depositors by an official or agency of this state or the United States; and a trust company or other institution authorized by federal or Alabama law to exercise fiduciary powers of the type a national bank is permitted to exercise under the authority of the Comptroller of the Currency and is supervised and examined by an official or agency of this state or the United States; but which does not include an insurance company or other organization primarily engaged in the insurance business, or a Morris Plan bank, industrial loan company, or a similar bank or company unless its deposits are insured by a federal agency; (c) a lawyer, accountant, engineer, or teacher whose performance of investment advisory services is solely incidental to the practice of that person's profession; (d) a broker-dealer or its agent whose performance of investment advisory services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for the investment advisory services; (e) a publisher, employee, or columnist of a newspaper, news magazine, or business or financial publication, or an owner, operator, producer, or employee of a cable, radio or television network, station, or production facility if the financial or business news published or disseminated is made available to the general public and the content does not consist of rendering advice on the basis of the specific investment situation of each client; (f) an insurance company, its employees or agents who are engaged

exclusively in the sale or distribution of life, health, or casualty insurance or insurance related products.

“(19) INVESTMENT ADVISER REPRESENTATIVE. ‘Investment adviser representative’ means any partner, officer, director of (or a person occupying a similar status or performing similar functions) or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who (1) makes any recommendation or otherwise renders advice regarding securities, (2) manages accounts or portfolios of clients, (3) determines which recommendation or advice regarding securities should be given, (4) solicits, offers or negotiates for the sale of or sells investment advisory services, unless the solicitation, offering, or selling activities are solely incidental to his or her profession and such person is a dealer or salesman registered under Section 8-6-3 and the person would not be an investment adviser representative except for the performance of activities described in subsection 8-6-2(18)(d), or (5) supervises employees who perform any of the foregoing.

“(20) OFFICER. A president, vice-president, treasurer, secretary, comptroller, or any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

“(21) APPLICANT. A person, natural or otherwise, executing or submitting an application for registration.

“(22) REGISTRANT. An applicant for whom a registration has been declared effective by the commission.

“(23) AFFILIATE. A person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, an applicant or registrant.

“(24) CONTROLLING PERSON, CONTROL, CONTROLLING, CONTROLLED BY, UNDER COMMON CONTROL WITH. The possession, directly, or indirectly, or the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

“(25) SALESMAN. An agent, as hereinabove defined.”

“§8-6-3.

“(a) It is unlawful for any person to transact business in this state as a dealer or agent for securities unless he is registered under this article. It is unlawful for any dealer or issuer to employ an agent unless the agent is registered.

“(b) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless (1) he is so registered under this act, (2) his only

clients in this state are investment companies as defined in the Investment Company Act of 1940, other investment advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plans with assets of not less than one million dollars (\$1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the commission, or (3) he has no place of business in this state and during any period of twelve consecutive months does not direct business communications in this state in any manner to more than five clients, other than those specified in subparagraph (2), whether or not he or any of the persons to whom the communications are directed is then present in this state.

“(c) It is unlawful for any investment adviser required to be registered to employ an investment adviser representative unless the investment adviser representative is registered under this act. The registration of an investment adviser representative is not effective during any period when he is not employed by an investment adviser registered under this act. When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser shall promptly notify the commission.

“(d) A dealer, agent, investment adviser or investment adviser representative may apply for registration by filing with the securities commission, or its designee, an application, together with a consent to service of process pursuant to section 8-6-12 and payment of the fee prescribed in subsection (h) of this section. The application shall contain whatever information the commission requires concerning such matters as:

“(1) The applicant’s form and place of organization;

“(2) The applicant’s proposed method of doing business;

“(3) The qualifications and business history of the applicant and, in the case of a dealer or investment adviser, any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer or investment adviser;

“(4) Any injunction or administrative order or conviction of a misdemeanor involving moral turpitude, a security or any aspect of the securities business, any conviction of a felony;

“(5) The applicant’s financial condition and history; and

“(6) Any information to be furnished or disseminated to any client or prospective client, if the applicant is an investment adviser.

“(e) The commission shall by rule or order require a 11 or any class of applicants to post surety bonds, or cash, in an amount not less than \$50,000, and shall determine their conditions.

“(f) If no order to the contrary is in effect and no proceeding is pending under subsection (j) of this section, registration becomes effective at 5:00 p.m. on the sixtieth day after an application is filed. The securities commission may specify an earlier effective date, and it may by order defer the effective date until 5:00 p.m. of the sixtieth day after the filing of any amendment. The commission shall require as conditions of registration that:

“(1) All or any class of applicants and, in the case of a corporation or partnership, the officers or partners, pass an examination, either written or oral, the form, content and conduct of which the commission shall prescribe by rule or order.

“(2) A dealer shall have and maintain a minimum net capital as the commission shall prescribe by rule or order. The commission may by rule establish minimum financial requirements for investment advisers, which may include different requirements for those investment advisers who maintain custody of clients’ funds or securities or who have discretionary authority over same and those investment advisers who do not.

“(3) Every registration expires December 31 unless renewed as hereinafter provided.

“(g) Registration of a dealer, agent, investment adviser or investment adviser representative may be renewed by filing with the securities commission, or its designee, prior to the expiration thereof, a renewal application. The renewal application shall contain such information as the commission may require to indicate any material change in the information contained in the original application or any renewal application for registration filed with the commission, or its designee, by the applicant, payment of the prescribed fee and bond as provided in subsection (e) of this section if the financial condition of the registrant requires such bond. In order to continue the effectiveness of registration and to entitle the dealer or adviser to a renewal thereof, such registrant must file a financial statement prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant showing the financial condition of such registrant at the close of its fiscal period. This statement must be filed with the commission, or its designee, within 60 days after the close of the registrant’s fiscal period unless an extension of time is granted by the commission. The commission shall accept for filing a financial statement in the form required to be filed with the United States securities and exchange commission from those registrants who are registered therewith.

“(h) The fee for initial or renewal registration shall be \$200.00 for a dealer, \$50.00 for an agent, \$200.00 for an investment adviser and \$50.00 for an investment adviser representative. The fee for initial or renewal registration of an investment adviser or investment adviser representative shall be deposited in the Alabama Securities Commission Fund in the state treasury to be drawn upon by the commission for its use in administration of this article. When an application is denied or withdrawn, the securities commission shall retain the fee.

“(i) Every registered dealer and investment adviser shall make and keep such accounts and other records as the securities commission by rule prescribes. All records so required shall be preserved for five years unless the commission prescribes otherwise for particular types of records. The commission may require that certain information be furnished or disseminated by a registrant as necessary or appropriate in the public interest or for the protection of investors and advisory clients. To the extent determined by the commission in its discretion, information furnished to clients or prospective clients of an investment adviser pursuant to the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of this requirement. All the records of any registrant are subject at any time or from time to time to such reasonable periodic, special or other examinations by representatives of the commission, within or without this state, as the commission deems necessary or appropriate in the public interest or for the protection of investors.

“(j) The securities commission may by order deny, suspend or revoke registration, or censor or bar any applicant or registrant or any officer, director, partner or person occupying a similar status or performing similar functions for a registrant, from employment with a dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in this state if the commission finds that the order is in the public interest and that the applicant or registrant or, in the case of a dealer or investment adviser, any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer or investment adviser:

“(1) Has filed an application for registration under this section which, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstance under which it was made, false or misleading with respect to any material fact;

“(2) Has willfully violated or willfully failed to comply with any provisions of this article, or a predecessor act, or any rule or order under this article or a predecessor act;

“(3) Has been convicted of any misdemeanor involving moral turpitude, a security or any aspect of the securities business or any felony;

“(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

“(5) Is the subject of an order of the commission denying, suspending or revoking registration as a dealer, agent, investment adviser, or investment adviser representative;

“(6) Is the subject of an order, adjudication or determination entered within the past ten years by a securities or commodities agency or a national securities exchange or association registered under the Securities Exchange Act of 1934, or an administrator of another state, or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act or the federal mail and wire fraud statutes, or the securities, investment adviser or commodities law of any other state; but the commission may not enter any order under this subsection on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

“(7) Has engaged in dishonest or unethical practices in the securities business;

“(8) Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature, but the commission may not enter an order against a dealer or investment adviser under this subsection without a finding of insolvency as to the dealer or investment adviser;

“(9) Has not complied with a condition imposed by the commission under subsection (f) of this section, or is not qualified on the basis of such factors as training, experience or knowledge of the securities business;

“(10) Has failed reasonably to supervise his agents or employees if he is a dealer, or his investment adviser representatives or employees if he is an investment adviser to assure their compliance with this article; or

“(11) Has failed to pay the proper filing fee, but the commission may enter only a denial order under this subsection, and it shall vacate any such order when the deficiency has been corrected.

The commission may by order summarily postpone or suspend registration pending final determination of any proceeding under this subsection.



“(k) If the securities commission finds that any registrant or applicant for registration is no longer in existence, has ceased to do business as a dealer, agent, investment adviser or investment adviser representative, is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian or cannot be located after reasonable search, the commission may by order cancel the registration or application.”

“§8-6-4.

“It is unlawful for any person to offer or sell any security in this state unless:

“(1) It is registered under this article;

“(2) The security is exempt from registration under section 8-6-10; or

“(3) The transaction is exempt under section 8-6-11.”

“§8-6-5.

“(a) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under section 8-6-6:

“(1) Any security whose issuer and any predecessors have been in continuous operation for at least five years if:

“a. There has been no default during the current fiscal year or within the three preceding fiscal years in the payment of principal, interest or dividends on any security of the issuer, or any predecessor, with a fixed maturity or a fixed interest or dividend provision; and

“b. The issuer and any predecessors during the past three fiscal years have had average net earnings determined in accordance with generally accepted accounting practices which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision and which:

“1. Equal at least five percent of the amount of securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed, (as measured by the maximum offering price or the market price on a day selected by the registrant within 30 days before the date of filing the registration statement, whichever is higher, or, if there is neither a readily determinable market price nor an offering price, book value on a day selected by the registrant within 90 days of the date of filing the registration statement); or

“2. If the issuer and any predecessors have not had any securities without a fixed maturity or a fixed interest or dividend provision

outstanding for three full fiscal years, equal at least five percent of the amount (as measured by the maximum public offering price) of such securities which will be outstanding if all the securities being offered or proposed to be offered, whether or not they are proposed to be registered or offered in this state, are issued.

“(2) Any security, other than a certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, registered for nonissuer distribution if any security of the same class has ever been registered under this article, or a predecessor act, or the security being registered was originally issued pursuant to an exemption under this article, or a predecessor act.

“(3) Any national market system security under Section 11A of the Securities Exchange Act of 1934, including any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so designated or approved, and any warrant or right to purchase or subscribe to any of the foregoing; provided, however, that the securities commission may by rule limit the application of this paragraph (3) if it finds such action to be in the public interest.

“(b) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 8-6-8 and, if required under section 8-6-12, a consent to service of process meeting the requirements of that section:

“(1) A statement demonstrating eligibility for registration by notification;

“(2) With respect to the issuer, its name, address and form of organization, the state or foreign jurisdiction and the date of its organization and the general character and location of its business;

“(3) A description of the securities being registered;

“(4) Total amount of securities to be offered and amount of securities to be offered in this state;

“(5) The price at which the securities are to be offered for sale to the public, any variation therefrom at which any portion of the offering is to be made to any person other than an underwriting and selling discounts or commissions, and the estimated maximum aggregate underwriting and selling discounts or commissions and finders' fees, including cash, securities or anything else of value;

“(6) Names and addresses of the managing underwriters and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

“(7) Description of any options outstanding or to be created in connection with the securities being offered;

“(8) Any adverse order or judgment previously entered in connection with the offering by any court or the securities and exchange commission;

“(9) A copy of an offering circular or prospectus to be used in connection with the offering;

“(10) In the case of any registration under subdivision (a) (2) of this section which does not also satisfy the conditions of subdivision (a) (1) of this section, a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet or for the period of the issuer's and any predecessor's existence if less than two years.

“(c) If no order to the contrary is in effect and no proceeding is pending under section 8-6-9, a registration statement under this section automatically becomes effective at 3:00 P.M. central standard time on the fifth full business day after the filing of the registration statement or the last amendment, or at such earlier time as the securities commission determines.”

“§8-6-6.

“(a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

“(b) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 8-6-8:

“(1) Two copies of the prospectus filed under the Securities Act of 1933, together with all amendments thereto;

“(2) If the securities commission requests, any other information or copies of any other documents filed under the Securities Act of 1933;

“(3) The amount of securities to be offered in this state;

“(4) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

“(5) Any adverse order or judgment previously entered in connection with the offering by any court or the securities and exchange commission;

“(6) An undertaking to forward promptly all amendments to the federal registration statement, other than an amendment which merely delays the effective date.

“(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

“(1) No order to the contrary is in effect;

“(2) The registration statement has been on file with the securities commission for at least five full business days; and

“(3) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for one full business day, or such shorter period as the commission permits by rule or otherwise, and the offering is made within those limitations. The registrant shall promptly notify the commission by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a posteffective amendment containing the information and documents in the price amendment. “Price amendment” means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices and other matters dependent upon the offering price.

“(d) Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the commission may enter an order denying effectiveness to the registration statement or suspending its effectiveness until compliance with subsection (c) of this section, if the commission promptly notifies the registrant by telephone or telegram, and promptly confirms by letter or telegram when it notifies by telephone, of the issuance of the order. If the registrant proves compliance with the requirements of subsection (c) of this section as to notice and posteffective amendment, the order is void as of the time of its entry. The commission may by rule or otherwise waive either or both of the conditions specified in subdivisions (c) (2) and (c) (3) of this section. If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the commission of the date when the federal registration statement is expected to become effective, the commission shall promptly advise the registrant by telephone or telegram at the registrant’s expense whether all the conditions are satisfied and whether it then contemplates the institution of a proceeding under section 8-6-9, but this advice by the commission does not preclude the institution of such a proceeding at any time.”

## §“8-6-7.

“(a) Any security may be registered by qualification.

“(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to payment of the registration fee prescribed in section 8-6-8 and, if required under section 8-6-12, a consent to service of process meeting the requirements of that section:

“(1) With respect to the issuer and any significant subsidiary, its name, address and form of organizations, the state or foreign jurisdiction and date of its organization, the general character and location of its business and a description of its physical properties and equipment;

“(2) With respect to every director and officer of the issuer or person occupying a similar status or performing similar functions, his name, address and principal occupation for the past five years, the amount of securities of the issuer held by him as of the date of the offering and a record of any securities of the issuer held by him previous to the filing of the application and the offering date and the remuneration paid to all such persons in the aggregate during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer and its predecessors, parents and subsidiaries;

“(3) With respect to any person not named in subdivision (b) (2), owning of record, or beneficially if known, 10 percent or more of the outstanding shares of any class of equity security of the issuer, the information specified in subdivision (b) (2) of this section other than his occupation;

“(4) With respect to every promoter not named in subdivision (b) (2) of this section, if the issuer was organized within the past three years, the information specified in subdivision (b) (2), any amount paid to him and the consideration for any such payment;

“(5) The capitalization and long-term debt, on both a current and a pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill or anything else, for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

“(6) The kind and amount of securities to be offered, the amount to be offered in this state, the proposed offering price and any variation therefrom at which any portion of the offering is to be

made to any persons except as underwriting and selling discounts and commissions, the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities or anything else of value to accrue to the underwriters in connection with the offering, the estimated amounts of other selling expenses and legal, engineering and accounting expenses to be incurred by the issuer in connection with the offering, the name and address of every underwriter and every recipient of a finder's fee, a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made or the proposed form of any such agreement whose terms have not yet been determined, and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

“(7) The estimated cash proceeds to be received by the issuer from the offering, the purposes for which the proceeds are to be used by the issuer, the amount to be used for each purpose, the order or priority in which the proceeds will be used for the purpose stated, the amounts of any funds to be raised from other sources to achieve the purposes stated and the sources of any such funds and, if any part of the proceeds is to be used to acquire any property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price;

“(8) A description of any stock options or other security options outstanding or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in subdivisions (b) (2), (b) (3), (b) (4), (b) (5) or (b) (7) of this section and by any persons who hold or will hold 10 percent or more in the aggregate of any such options;

“(9) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

“(10) Any adverse order or judgment previously entered in connection with the offering by any court or the securities and exchange commission and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets, including any such litigation or proceeding known to be contemplated;

“(11) Six copies of any prospectus or circular intended as of the effective date to be used in connection with the offering;

“(12) A specimen or copy of the security being registered, a copy of the issuer's articles of incorporation and bylaws as currently in effect and a copy of any indenture or other instrument covering the security to be registered;

“(13) A signed or conformed copy of an opinion of counsel as to the legality of the security being registered, which shall state whether the security when sold will be legally issued, fully paid and nonassessable, and, if a debt security, a binding obligation of the issuer;

“(14) A balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet or for the period of the issuer's and any predecessor's existence if less than three years and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant.

“(c) A registration statement under this section becomes effective when the securities commission so orders. The commission may require as a condition of registration under this section that a prospectus containing any designated part of the information specified in subsection (b) of this section to be sent or given to each person to whom an offer is made before or concurrently with:

“(1) The first written offer made to him, otherwise than by means of a public advertisement, by or for the account of the issuer or any other person on whose behalf the offering is being made or by any underwriter or dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution,

“(2) The confirmation of any sale made by or for the account of any such person,

“(3) Payment pursuant to any such sale, or

“(4) Delivery of the security pursuant to any such sale, whichever first occurs; but the commission shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder.”

“§8-6-8.

“(a) A registration statement on securities may be filed by the issuer, any other person on whose behalf the offering is to be made or a registered dealer. Any document filed under this article within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commission may permit,

by rule or otherwise, the omission of any item of information or document from any registration statement.

“(b) The securities commission may require as a condition of registration by qualification or coordination that (1) proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (2) any security issued within the past three years, or to be issued, to a promoter for a consideration substantially different from the public offering price or to any person for a consideration other than cash be delivered in escrow to him or to some other depository satisfactory to him under an escrow agreement that the owners of such securities shall not be entitled to sell or transfer such securities or to withdraw such securities from escrow until all other stockholders who have paid for their stock in cash shall have been paid a dividend or dividends aggregating not less than six percent of the initial offering price shown to the satisfaction of the commission to have been actually earned on the investment in any common stock so held. The commission shall not reject a depository solely because of location in another state. In case of dissolution or insolvency during the time such securities are held in escrow, the owner of such securities shall not participate in the assets until after the owners of all other securities shall have been paid in full.

“(c) The securities commission shall take official action on the application for registration by qualification within sixty (60) days after the application has been filed and give written notice thereof, to the applicant or applicants. If the application is denied, the notice shall state the grounds for denial or, if action is delayed, the notice shall state the reasons for the delay.

“(d) For the registration of securities there shall be paid to the securities commission a filing fee of \$40.00, plus a registration fee of one tenth of one percent of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be more than \$1,000.00. When a registration statement is withdrawn before the effective date or a preeffective order is entered under section 8-6-9, the commission shall retain the filing and registration fees. An open-end management company, a face amount certificate company, or a unit investment trust, as defined in the Investment Company Act of 1940, may register an indefinite amount of securities under a registration statement. Such registrant, at the time of filing, shall pay the filing fee of \$40.00 and a registration fee of \$1,000 and within 60 days after the end of each year during which its registration statement is effective, file a report on a form the commission, by rule, adopts, specifying its sale of securities to persons in this state during such year. Such registrant shall pay the



same registration fee each year during which the registration statement remains in effect.

“(e) When securities are registered they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered dealer. Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time an order is in effect under section 8-6-9. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction (1) so long as the registration statement is effective and (2) between the thirtieth day after the entry of any order suspending or revoking the effectiveness of the registration statement under section 8-6-9, if the registration statement did not relate in whole or in part to a nonissuer distribution, and one year from the effective date of the registration statement. A registration statement which has become effective may not be withdrawn for a period of one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the commission.

“(f) The securities commission may require the person who filed the registration statement to file reports, but not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to securities registered by coordination and notification; provided, however, that where a registration statement has been filed by a person other than the issuer or an affiliate of the issuer, the commission may require such person to file such reports on an annual basis only.

“(g) Every issuer whose securities have been registered by qualification and the registration of whose securities has not been cancelled and who has not been discharged from filing further quarterly reports under the provisions of subsection (i) of this section shall file within 30 days after the close of business on December 31, March 31, June 30 and September 30 of each year and at such other reasonable times as may be required by the securities commission, a statement, verified under oath by some person having actual knowledge of the facts therein stated, setting forth, in such form as may be prescribed by the commission, the financial condition, the amount of assets and liabilities of such issuer on the above date and such other information as the commission may require. If any issuer subject

to the provisions of this subsection shall willfully fail or refuse to comply with any of the provisions of this subsection and shall continue to so fail or refuse for 30 days after notice or demand, the registration statement of said issuer's securities shall thereupon be revoked, and it shall thereafter be unlawful for any such issuer, his agent or agents, any dealer or salesman to sell such securities in this state.

"(h) Any issuer, whose securities have been registered by qualification as provided in section 8-6-7, who has completed the sale of the securities so registered, or who desires to discontinue the sale of said registered securities, and who desires to be discharged from further supervision of the securities commission or from further compliance with the Alabama securities law may file with the commission a notice in writing to such effect, and the commission may thereupon enter an order cancelling the registration of such securities; and such issuer shall thereupon be discharged from filing any financial report except as the commission may require up to and including the date of the filing of said notice as hereinabove provided. No such notice may be filed within one year after the effective date of the registration statement if any securities of the same class as those registered are outstanding."

"§8-6-9.

"(a) The securities commission shall issue an order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement in the sale of securities if it finds that the order is in the public interest and that:

"(1) The registration statement, as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact.

"(2) Any provision of this article or any rule, order or condition lawfully imposed under this article has been willfully violated in connection with the offering by:

"a. Any person filing the registration statement;

"b. The issuer, any partner, officer or director of the issuer, any person occupying a similar status or performing similar functions or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or

"c. Any underwriter.

"(3) The issuer, any partner, officer or director of the issuer, any person occupying a similar status or performing similar functions

or any person directly or indirectly controlling the issuer, or any underwriter has:

“a. Willfully violated or willfully failed to comply with any provision of this article or any rule or order under this article, or any predecessor act; or

“b. Has been convicted of a felony or any misdemeanor involving moral turpitude, a security or any aspect of the securities business.

“(4) The security registered or sought to be registered is the subject of a permanent injunction or temporary restraining order of any court of competent jurisdiction entered under any other federal or state act applicable to the offering, but:

“a. The commission may not institute a proceeding against an effective registration statement under this subdivision more than one year from the date of the injunction relied on; and

“b. It may not enter an order under this subdivision on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section.

“(5) The issuer’s enterprise or method of business includes or would include activities which are illegal where performed.

“(6) The offering has worked or tended to work a fraud upon purchasers or would so operate.

“(7) The offering is being made on terms that are unfair, unjust, or inequitable.

“(8) When a security is sought to be registered by notification, it is not eligible for such registration.

“(9) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by subdivision (b) (6) of section 8-6-6.

“(10) The offering has been or would be made with unreasonable amounts of underwriters’ and sellers’ discounts, commissions or other compensation, promoters’ profits or participation or unreasonable amounts or kinds of options.

“(11) The applicant or registrant has failed to pay the proper registration fee, but the commission may enter only a denial order under this subdivision, and it shall vacate any such order when the deficiency has been corrected.

“§8-6-10.

“Sections 8-6-4 through 8-6-9 shall not apply to any of the following securities:

“(1) Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

“(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing or any other foreign government with which the United States currently maintains diplomatic relations if the security is recognized as a valid obligation by the issuer or guarantor;

“(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States or any bank, savings institution or trust company organized and supervised under the laws of this state;

“(4) Any security issued by and representing an interest in, a debt of, or guaranteed by any federal savings and loan association or any building and loan or similar association organized under the laws of this state;

“(5) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association or similar association organized and supervised under the laws of this state;

“(6) Any security issued or guaranteed by any railroad, other common carrier, public utility or holding company which is:

“a. Subject to the jurisdiction of the interstate commerce commission;

“b. A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act;

“c. Regulated in respect to its rates and charges by a governmental authority of the United States or any state; or

“d. Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada or any Canadian province;

“(7) Any national market system security under Section 11A of the Securities Exchange Act of 1934 (including any other security of the same issuer which is of senior or substantially equal rank;

any security called for by subscription rights or warrants so designated or approved; and any warrant or right to purchase or subscribe to any of the foregoing) which is so designated or approved for designation upon notice of issuance on an interdealer quotation system operated by a national securities association registered under Section 15A of the Securities Exchange Act of 1934, or which is listed or approved for listing upon notice of issuance on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, if the listing or designation criteria applicable to the issuer of that security provide minimum corporate governance standards substantially equivalent to those applicable to securities on the New York Stock Exchange, the American Stock Exchange or the National Association of Securities Dealers National Market System as of the effective date of this act; provided, however, that the commission may by order deny, revoke or suspend the exemption of a specific issue of securities or by rule any category of securities when necessitated by the public interest and for the protection of investors.

“(8) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes or as a chamber of commerce or trade or professional association;

“(9) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited or any guarantee of such paper or of any such renewal; or

“(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing or similar benefit plan.

“(11) A security issued by an issuer registered as an open-end management investment company or unit investment trust under Section 8 of the Investment Company Act of 1940 if:

“(a)(i) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least three (3) years next preceding an offer or sale of a security claimed to be exempt under this paragraph; and the adviser has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least three

years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(ii) The issuer has a sponsor that has at all time throughout the three (3) years before an offer or sale of a security claimed to be exempt under this paragraph sponsored one (1) or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded one hundred million dollars (\$100,000,000).

“(b) The securities commission has received prior to the offer or sale of the securities exempted here:

“(i) a notice of intention to sell which has been executed by the issuer and which sets forth the name and address of the issuer and the description of the securities to be offered in this state; and

“(ii) a non-refundable filing fee of three hundred dollars (\$300.00) for an open-end management investment company with total net assets of twenty-five million dollars (\$25,000,000.00) or less, or a non-refundable filing fee of six hundred dollars (\$600.00) for an open-end management investment company with total net assets of more than twenty-five million dollars (\$25,000,000.00) but less than one hundred million dollars (\$100,000,000.00), or a non-refundable filing fee of one thousand dollars (\$1,000.00) for an open-end management investment company with total net assets equal to or greater than one hundred million dollars (\$100,000,000.00); or a non-refundable filing fee of two hundred dollars (\$200.00) for a unit investment trust.

“(c) In the event any offer or sale of a security of an open-end management investment company is to be made more than twelve months after the date notice under subparagraph (b) is received by the director, another notice and payment of the applicable fee shall be required.

“(d) For the purpose of this paragraph an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.”

“§8-6-11.

“(a) Except as hereinafter in this section expressly provided, sections 8-6-3 through 8-6-9 shall not apply to any of the following transactions:

“(1) Any isolated nonissuer transaction, whether effected through a dealer or not;

“(2) Any nonissuer transaction in an outstanding security by a registered dealer if:

“a. The issuer has a class of securities subject to registration under Section 12 of the Securities Exchange Act of 1934 and has

been subject to the reporting requirements of Sections 13 or 15(d) of the Securities Exchange Act of 1934 for not less than 180 days before the transaction; or has filed and maintained with the commission for not less than 180 days before the transaction information, in such form as the commission, by rule, specifies, substantially comparable to the information which the issuer would be required to file under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934, or the securities have been the subject of an effective registration statement within 180 days before the transaction, or the issuer is required to file and has filed all reports under Section 13 of the Securities Exchange Act of 1934, or the issuer is exempted from registration by Section 12(g)(3) of the Securities Exchange Act of 1934, it or its predecessor in interest has been in existence for at least five years, the security is listed for trading on a foreign securities exchange and has been trading for at least six months and continues to trade on such exchange, and the aggregate market value of shares, the ownership of which is unrestricted, is not less than \$500 million; or

“b. The issuer is an investment company registered under the Investment Company Act of 1940 and has been subject to the reporting requirements of Section 30 of that act for not less than 180 days before the transaction; or

“c. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year, within the three preceding fiscal years or during the existence of the issuer and any predecessors if less than three years in the payment of principal, interest or dividends on the security;

“(3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;

“(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters;

“(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

“(6) Any sale or the offering for sale of any security at any judicial, executor's, administrator's, guardian or conservator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy;

“(7) Any transaction executed by a bona fide pledge without any purpose of evading this article;

“(8) Any offer or sale to a bank, savings institution, credit union, trust company, insurance company or investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

“(9) Any transaction which is part of an issue of which there are no more than ten purchasers [other than those designated in subdivision (a)(8) of this section] wherever located, of securities from the issuer during any period of twelve consecutive months if:

“a. The issuer reasonably believes that all the buyers are purchasing for investment and not with a view to distribution, and such issuer exercises reasonable care to assure this investment intent, which reasonable care shall be presumed if the following conditions are satisfied:

“(i) reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

“(ii) written disclosure to each purchaser prior to sale that the securities have not been registered under the act and, therefore, cannot be resold unless they are registered under the act or unless an exemption from registration is available;

“(iii) placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the act and setting forth or referring to the restrictions on transferability and sale of the securities; and

“b. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer; and

“c. No public advertising or general solicitation is used in connection with the issue of which the transaction in reliance on this exemption is a part.

“Sections 8-6-3 through 8-6-9 shall not apply to any offer made pursuant to this subdivision (a)(9) in which no sale results.

“But the securities commission may by rule or order, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption or decrease or increase the number of purchasers permitted, or waive the conditions in paragraphs a. and b. of this subdivision (9) with or without the substitution of a limitation on remuneration.

“(10) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the



transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than 90 days of their issuance, if:

“a. No commission or other remuneration, other than a standby commission, is paid or given directly or indirectly for soliciting any security holder in this state; or

“b. The issuer first files a notice specifying the terms of the offer and the securities commission does not by order disallow the exemption within the next five full business days;

“(11) Any offer, but not a sale, of a security for which registration statements have been filed under both this article and the Securities Act of 1933 if no order of denial, suspension or revocation is in effect and no public proceeding or examination looking toward such an order is pending under either act;

“(12) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock; or

“(13) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets.

“(14) Any transaction by an issuer if:

“a. The aggregate amount of the total offering, within or without this state, shall not exceed \$500,000.00, less the aggregate offering price of all securities sold within twelve months before the start of and during the offering of securities under this subsection or in reliance on the exemption contained in subparagraph A of Section 8-6-11(a)(9) or which have been sold in violation of Section 8-6-4.

“b. No person purchases more than \$15,000.00 of the securities offered and sold in reliance upon the exemption contained in this subparagraph, except that this limitation on the amount that may be purchased shall not apply to ‘accredited investors’ as defined in 17 Code of Federal Regulations § 230.501.

“c. A disclosure document is delivered to any purchaser of the securities sold pursuant to this exemption prior to or simultaneously with the execution by the purchaser of a written agreement to purchase, the delivery of a confirmation of sale, or the payment for securities offered by means of such disclosure document, whichever

occurs first. The disclosure document under which securities are sold pursuant to this exemption shall contain the following:

“(i) With respect to the issuer: its name, street address, form of organization and its telephone number; the state or foreign jurisdiction and the date of its organization; a brief description of the type and location of its business;

“(ii) A brief description of the material risks associated with the purchase of the securities;

“(iii) The use of proceeds from the offering, including a description of expenses, commissions and fees paid in connection with the offering and the net proceeds available for use by the issuer;

“(iv) A description of the capital stock of the issuer if a corporation or the equity ownership if an organization other than a corporation, including, where appropriate, the number of shares of capital stock issued and outstanding, the number of shares owned by management, and the options outstanding, if any, and the average exercise price for such options;

“(v) The dilution, if any, to purchasers of the securities offered for sale pursuant to this exemption;

“(vi) A description of the management of the issuer and material transactions between the issuer and management;

“(vii) A statement that additional information concerning the issuer may be obtained upon request, including, where applicable, articles of incorporation or partnership agreement;

“(viii) The following financial statements which may, but need not, be certified: (1) a balance sheet of the issuer or a consolidated balance sheet of the issuer and its subsidiaries prepared in accordance with generally accepted accounting principles, as of a date within ninety days prior to the first offer of sale; and (2) a profit and loss statement of the issuer or consolidated statement of the issuer and its subsidiaries prepared in accordance with generally accepted accounting principles for each of the two fiscal years preceding the date of the balance sheet referred to above and for the interim period, if any, between the close of the most recent of such fiscal years and the date of the balance sheet and for the corresponding period of the preceding year or if the issuer and its predecessor have been in existence for less than two fiscal years, the profit and loss statement for the period for which it has been in existence;

“(ix) The disclosure document shall contain substantially the following information shown boldly on the outside cover:

“The securities are offered pursuant to a claim of exemption under the Alabama Securities Act. A registration statement relating

to these securities has not been filed with the Alabama securities commission. The commission does not recommend or endorse the purchase of any securities, nor does it pass upon the accuracy or completeness of this private placement memorandum. Any representation to the contrary is a criminal offense.

“(x) The commission may, by rule or order, require as a condition of exemption under this Section 8-6-11(a)(15) that the disclosure document contain any designated part of the information as would be required by Part 1 of Form S-18, Code of Federal Regulations 239.28 not otherwise disclosed by this Section 8-6-11(a)(15), or permit the omission of any item of information from the disclosure document.

“d. The seller reasonably believes that all buyers are purchasing for investment.

“e. No commission, finders fee or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in this state, unless such person is registered in this state pursuant to Section 8-6-3.

“f. If the issuer is a corporation, its principal office and a majority of its full-time employees are located in this state.

“g. If the issuer is a limited partnership, at least 80% of its assets are located in this state.

“h. At least 80% of the proceeds of the offering under this Section 8-6-11(a)(15) are used in the issuers operations in this state.

“i. At least 80% of the net proceeds of the offering under this Section 8-6-11(a)(15) are committed for use in a specific business.

“j. Securities offered or sold under this Section 8-6-11(a)(15) are not offered or sold on credit or credit terms.

“k. Offers and sales which are exempt under this Section 8-6-11(a)(15) are not combined with offers and sales by issuers in transactions which are exempt under any other rule or section of this act.

“1. No exemption under this rule shall be available for the securities of any issuer if any of the parties described in Rule 252(c), (d), (e) or (f) of Regulation A, 17 Code of Federal Regulations § 230.252(c), (d), (e), and (f), adopted under the Securities Act of 1933 (generally described as: the issuer, any of its predecessors or any affiliated issuer; any of the directors, officers, general partners or beneficial owners of 10% or more of any equity securities of the issuer; any underwriter of the securities or any partner, director or officer of any such underwriter; or any issuer subject to the reporting requirements of the Securities Exchange Act of 1934 who has failed to file required reports);

“(i) Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any state’s securities law within five (5) years prior to the filing of the notice required under this exemption.

“(ii) Has been convicted within five (5) years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

“(iii) Is currently subject to any state administrative enforcement order or judgment entered by that state’s securities administrator within five (5) years prior to the filing of the notice required under this exemption or is subject to any state’s administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five (5) years prior to the filing of the notice required under this exemption.

“(iv) Is subject to any state’s administrative enforcement order or judgment which prohibits, denies or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities.

“(v) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining, such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within five (5) years prior to the filing of the notice required under this exemption.

“(vi) The prohibitions of subparagraphs (i), (ii), (iii), and (v) above shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against such person or if the broker/dealer employing such party is licensed or registered in this state and the Form B-D filed with this state discloses the order, conviction, judgment or decree relating to such person. No person disqualified under this subsection may act in a capacity other than that for which the person is licensed or registered.

“(vii) Any disqualification caused by this section may be waived if the state securities administrator or agency of the state which

created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

“(viii) The disqualification found in 17 Code of Federal Regulations § 230 of Regulation D, shall apply also to offerings made pursuant to Rule 506 of the Code of Federal Regulations.

“m. The issuer shall file with the securities commission:

“(i) An application for exemption on Form D, 17 Code of Federal Regulations § 239.500 no later than five (5) full business days prior to the commencement of the offering in this state. The application for exemption shall include two copies of all information furnished by the issuer to any of the offerees. The commission shall issue an order of exemption, notice of deficiency, or denial of exemption within the five (5) full day business period;

“(ii) A notice of Part C of Form D, 17 Code of Federal Regulations § 239.500, no later than thirty (30) days after the completion date of the offering;

“(iii) The notice of Form D, 17 Code of Federal Regulations § 239.500, required by paragraphs (i) and (ii) above shall be manually signed by a person duly authorized by the issuer;

“(iv) Every application for exemption provided for in paragraph (i) above shall be accompanied by a nonrefundable filing fee of \$150.00. Such filing fee shall be deposited in the Alabama Securities Commission Fund in the state treasury to be drawn upon by the commission for its use in administration of this article. All applications for exemption and notices on Form D, 17 Code of Federal Regulations § 239.500 shall be considered filed with the securities commission as of the date on which received at the office of the securities commission;

“(v) Unless otherwise available, included with or in the initial notice shall be a consent to service of process as provided for in Section 8-6-12.

“But the securities commission may by rule or order, as to any security or transaction of any type of security or transaction, withdraw or further condition this exemption.

“(b) The securities commission may by order deny or revoke the exemption specified in this section with respect to a specific security if it finds the sale of such security would work or tend to work a fraud upon the purchasers thereof. No order under this subsection may operate retroactively. No person may be considered to have violated this article by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the

burden of proof that he did not know and in the exercise of reasonable care could not have known of the order. In any proceeding under this article, the burden of proving an exemption from a definition is upon the person claiming it.

“(c) Any individual, corporation, partnership or association who makes application to the securities commission for any exemption from full registration under subdivision (a) (9) of this section shall be assessed a filing fee in the amount of \$150.00 upon application for such exemption. Said fee shall accompany the application and shall not be refunded whether the application is approved or rejected. Fees collected under this subsection shall be deposited in a special account in the state treasury for the use of the commission in the administration of this article.”

“§8-6-12.

“(a) The provisions of this article shall apply to persons who sell or offer to sell when

“(1) an offer to sell is made in this state, or

“(2) an offer to buy is made and accepted in this state.

“(b) The provisions of this article shall apply to persons who buy or offer to buy when

“(1) an offer to buy is made in this state, or

“(2) an offer to sell is made and accepted in this state.

“(c) An offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer

“(1) originates from this state, or

“(2) is directed by the offeror to this state and received at the place to which it is directed (or at any post office in this state in the case of a mailed offer).

“(d) An offer to buy or to sell is accepted in this state when acceptance

“(1) is communicated to the offeror in this state, and

“(2) has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed (or at any post office in this state in the case of a mailed acceptance).

“(e) (1) Every applicant for registration as a dealer or salesman under this article and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the security commission, in such form as it prescribes, an irrevocable consent appointing the secretary of state to be his attorney to receive service of any lawful process in any noncriminal action or proceeding against him, or his successor, executor or administrator, which arises under this article or any rule or order hereunder after the consent has been filed with the same force and validity as if served personally on the person filing the consent.

“(2) A person who has filed such a consent in connection with a previous registration need not file another.

“(3) Service may be made by leaving a copy of the process in the office of the secretary of state, but it is not effective unless:

“a. The plaintiff, who may be the securities commission, in an action or proceeding instituted by it, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the commission, and

“b. The plaintiff’s affidavit of compliance with this clause is filed in the case on or before the return day of the process, if any, or within such further time as the court allows; provided however, that this subsection shall not apply to an issuer whose securities are registered by coordination with the commission.”

“§8-6-13.

“Repealed by Acts 1977, No. 607, p. 812, §9901, as amended, effective January 1, 1980.”

“§8-6-14.

“(a) Neither the fact that an application for registration under section 8-6-3 or a registration statement under sections 8-6-5, 8-6-6 or 8-6-7 has been filed, nor the fact that a person or security is effectively registered constitutes a finding by the securities commission that any document filed under this article is true, complete and not misleading.

“(b) Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the securities commission has passed in any way upon the merits or qualifications of or recommended or given approval to any person, security or transaction.

“(c) It is unlawful to make, or cause to be made, to any prospective purchaser, customer or client any representation inconsistent with this section.”

“§8-6-15.

“(a) The securities commission, in its discretion, may:

“(1) Make such public or private investigations within or outside of this state as he deems necessary to determine whether any registration in the sale of securities should be granted, denied or revoked, whether any person has violated or is about to violate any provision of this article or any rule or order hereunder, to aid in the enforcement of this article or in the prescribing of rules and forms hereunder;

“(2) Require or permit any person to file a statement in writing, under oath or otherwise as the commission may determine, as to all the facts and circumstances concerning the matter to be investigated; and

“(3) Publish information concerning any violation of this article or any rule or order hereunder.

“(b) For the purpose of any investigation or proceeding under this article, the securities commission or any officer designated by it may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commission deems relevant or material to the inquiry.

“(c) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction may issue, upon application by the securities commission, to that person an order requiring him to appear before the commission or the officer designated by it, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

“(d) No person is excused from attending and testifying or from producing any document or record before the securities commission or in obedience to the subpoena of the commission or any officer designated by it, in any proceeding instituted by the commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.”



“§8-6-16.

“(a) Whenever it appears to the securities commission that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this article or any rule or order hereunder, it may bring an action in its discretion in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this article or any rule or order hereunder.

“(b) Upon a proper showing, a permanent injunction, temporary restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant’s assets, but the securities commission may not be required to post a bond.”

“§8-6-17.

“(a) It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly, to:

“(1) Employ any device, scheme or artifice to defraud;

“(2) Make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

“(3) Engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person. (Acts 1959, No. 542, p. 1318, §1.)

“(b) It is unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise,

“(1) to employ any device, scheme, or artifice to defraud the other person,

“(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person,

“(3) acting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction. The prohibitions of this subparagraph shall not apply to any transaction with a customer of

a dealer if such dealer is not acting as an investment adviser in relation to such transaction; or

“(4) to engage in dishonest or unethical practices as the commission may define by rule.

“(c) In the solicitation of advisory clients, it is unlawful for any person to make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

“(d) Except as may be permitted by rule or order of the commission, it is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing,

“(1) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

“(2) that no assignment of the contract may be made by adviser without the consent of the other party to the contract; and

“(3) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

“(e) Subparagraph (d)(1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. ‘Assignment,’ as used in clause (2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor’s outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

“(f) It is unlawful for any investment adviser to take or have custody of any securities or funds of any client if,

“(1) the commission by rule prohibits custody; or

“(2) in the absence of rule, the investment adviser fails to notify the commission that he has or may have custody.

“(g) The commission may by rule or order adopt exemptions from subparagraph (b)(3) and subparagraphs (d)(1), (d)(2) and (d)(3) where such exemptions are consistent with the public interest and within the purposes fairly intended by the policy and provisions of this act.”

“§8-6-18.

“(a) Any person who willfully violates any provisions of this article shall, upon conviction, be guilty of a Class C felony. No prosecution may be commenced under this article more than five years after the alleged violation.

“(b) Any person who willfully violates any rule or order under this article shall, upon conviction, be guilty of a Class A misdemeanor.

“(c) The enforcement of the provisions of this article shall be vested in the securities commission. It shall be the duty of the commission to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The commission shall at once lay before the district attorney of the proper county any evidence which shall come to its knowledge of criminality under this article. In the event of the neglect or refusal of the district attorney to institute and prosecute such violation, the commission shall be authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or court attorneys including the power to appear before grand juries and to interrogate witnesses before such grand juries.

“(d) Nothing in this article limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

“(e) In any proceeding under this article, scienter need not be alleged and proved in prosecutions involving the sale of unregistered securities or in the failure to register as a dealer, agent, investment adviser or investment adviser representative under this article.”

“§8-6-19.

“1. (a) Any person who:

(1) Sells or offers to sell a security in violation of any provision of this article or of any rule or order imposed under this article or of any condition imposed under this article, or

“(2) Sells or offers to sell a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the buyer

not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission, is liable to the person buying the security from him who may bring an action to recover the consideration paid for the security, together with interest at six percent per year from the date of payment, court costs and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at six percent per year from the date of disposition.

"(b)(1) Any person who engages in the business of advising others, for compensation, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities in violation of sections 8-6-17(b), (c), (d), (e) or (f), 8-6-3(b) or (c), 8-6-14, is liable to that person, who may bring an action to recover the consideration paid for such advice and any loss due to such advice, together with interest at six percent per year from the date of payment of the consideration plus costs and reasonable attorney's fees, less the amount of any income received from such advice.

"No person may maintain an action hereunder pursuant to a violation of Section 8-6-3(c) based solely on the fact that an investment adviser representative other than the one from whom the person received advice is unregistered.

"(2) Any person who receives, directly or indirectly, any consideration from another person for advice as to the value of securities or their purchase or sale, whether through the issuance of analyses, reports or otherwise and employs any device, scheme, or artifice to defraud such other person or engages in any act, practice or course of business which operates or would operate as a fraud or deceit on such other person, is liable to that person, who may bring an action to recover the consideration paid for such advice and any loss due to such advice, together with interest at six percent per year from the date of payment of the consideration plus costs and reasonable attorney's fees, less the amount of any income received from such advice.

"An action based on a violation of Section 8-6-17(c) and this section may not prevail where the person accused of the violation sustains the burden of proof that he did not know, and in the exercise of reasonable care, could not have known of the existence of the facts by reason of which the liability is alleged to exist.

“(c) Every person who directly or indirectly controls a person liable under subsections (a) or (b) of this section, including every partner, officer or director of such a person, every person occupying a similar status or performing similar functions, every employee of such a person who materially aids in the conduct giving rise to the liability, and every dealer or agent who materially aids in such conduct is also liable jointly and severally with and to the same extent as the person liable under subsection (a) or (b), unless he is liable to sustain the burden of proof that he did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

“(d) Any tender specified in this section may be made at any time before entry of judgment.

“(e) Every cause of action under this section survives the death of any person who might have been a plaintiff or defendant.

“(f) No person may obtain relief under this section in an action involving the failure to register securities unless suit is brought within two years from the date of sale. All other actions for relief under this section must be brought within the earlier of two years after discovery of the violation or two years after discovery should have been made by the exercise of reasonable care. No person may bring an action under this subsection 8-6-19(a):

“(1) If the buyer received a written offer, before the action and at a time when he owned the security, to refund the consideration paid together with interest at six percent per year from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within 30 days of its receipt, or

“(2) If the buyer received such an offer before the action and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt.

“(g) No person who has made or engaged in the performance of any contract in violation of any provision of this article or any rule or order hereunder or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any action on the contract.

“(h) Any condition, stipulation or provision binding any person acquiring any security or receiving any investment advice to waive compliance with any provision of this article or any rule or order hereunder is void.

“(i) The rights and remedies provided by this article are in addition to any other rights or remedies that may exist.”

"2. (a) The commission may by order, if it finds such order to be in the public interest, impose an administrative assessment upon any person who violates any provision of this article or any rule or order issued under this article.

"(b) Any administrative assessment imposed under this section shall not exceed \$5,000 for each act or omission that constitutes the basis for an order issued under this section, except that the amount of the administrative assessment may not exceed \$50,000 for any person subject to the order.

"(c) For the purposes of determining the amount or extent of an administrative assessment, if any, to be imposed under this section, the commission shall consider among other factors, the frequency, persistence and willfulness of the conduct constituting a violation of any provision of this article or any rule or order issued under this article, and the number of persons adversely affected by the conduct.

"(d) The administrative assessment under this section is in addition to any other penalty, remedy or sanction that may be imposed under this article.

"(e) All assessments collected under this subsection 8-6-19(2) shall be deposited in the general fund of the state.

"3. (a) The commission may charge, in addition to any administrative assessment, fine, penalty, remedy or sanction imposed under this article, the actual cost of any investigation resulting from any violation of any provision of this article or any violation of any rule or order issued under this article or the actual cost of any examination made by the commission pursuant to this article, to the party or parties subject to such investigation or examination. Such charge may include, but is not limited to, a per diem prorated upon the salary cost of any employee of the commission together with actual travel, housing and any and all other reasonable expenses incurred as a result of such investigation or examination.

"(b) All charges assessed for costs involved pursuant to subsection 8-6-19(3)(a) shall be deposited in the Alabama Securities Commission fund in the state treasury to be drawn upon by the commission for its use in the administration of this article.

"§8-6-20.

"Repealed by Acts 1977, No. 607, p. 812, §9901, as amended, effective January 1, 1980."

"§8-6-21.

"The securities commission is authorized and empowered to swear out warrants of arrest against any person violating the criminal

provisions of this article, and it shall not be liable in damages or to an action for damages by reason of swearing out warrants or for causing the arrest and detention or imprisonment of any person or persons under such warrant or warrants."

"§8-6-22.

"The director of the securities commission shall keep the records of the commission and generally perform such duties as the commission may direct. When ordered by the commission, he shall be authorized and empowered to swear out warrants of arrest against any person violating the criminal provisions of this article. He shall not be liable in damages or to an action for damages by reason of swearing out such warrant or warrants or for causing the arrest, detention or imprisonment of any person or persons under such warrant or warrants."

"§8-6-23.

"The securities commission may from time to time make, amend and rescind such rules and prescribe such forms as are necessary and desirable to carry out the provisions of this article. No rules or forms may be made or prescribed unless the commission finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this article. In prescribing rules and forms the commission may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this article to achieve maximum uniformity in the form and content of registration statements, applications and reports wherever practicable. All rules and forms of the commission shall be published."

"§8-6-24.

"No provision of this article imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form or order of the securities commission, notwithstanding that the rule or form may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason."

"§8-6-25.

"Every hearing in an administrative proceeding shall be public unless the securities commission, in its discretion, grants a request joined in by all the respondents that the hearing be conducted privately."

"§8-6-26.

"A document is deemed filed when it is received by the securities commission."

“§8-6-27.

“The securities commission shall keep a register of all applications for registration and registration statements which are or have ever been effective under this article and all denial, suspension or revocation orders which have ever been entered under this article. The register shall be open for public inspection. The information contained in or filed with any registration statement, application or report may be made available to the public under such rules as the commission prescribes.”

“§8-6-28.

“Upon request and at such reasonable charges as it prescribes, the securities commission shall furnish to any person photostatic or other copies, certified under its seal of office if requested, of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this article, any copy so certified is prima facie evidence of the contents of the entry or document certified.”

“§8-6-29.

“(a) The securities commission, in its discretion, may honor requests from interested persons for interpretative opinions and no-action letters.

“(b) Any person who makes application to the Securities Commission for an interpretative opinion or no-action letter shall be assessed a non-refundable filing fee of \$150.00 upon application for such opinion or letter. Fees collected under this section shall be deposited in the Alabama Securities Commission Fund in the state treasury to be drawn upon by the commission for its use in the administration of this article.”

“§8-6-30.

“In any proceeding under this article, the burden of proving an exemption or an exception from a definition is upon the person claiming it.”

“§8-6-31.

“The securities commission may issue and give warnings to the public concerning securities being sold in this state and may in its discretion cause to be published information regarding any orders or rules issued by the commission in the implementation of its duties, including, without limitation, information pertaining to specific orders denying registration or prohibiting the sale of securities.”

“§8-6-32.

“(a) Any person aggrieved by an order issued under this article shall be entitled to a hearing pursuant to the provisions of the



Alabama Administrative Procedure Act pertaining to 'contested cases,' if such person, within twenty-eight days after delivery of the order, submits a written request for a hearing before the commission. The order shall disclose the right to a hearing upon written request within twenty-eight days after delivery of the order. If no timely request for a hearing is made, the order shall constitute a final order of the commission.

"(b) Any appeal from any final order of the commission shall be made to the circuit court of Montgomery County and shall be governed by the provisions of the Alabama Administrative Procedure Act pertaining to judicial review.

"§8-6-33.

"All moneys accruing to or collected by or through the securities commission shall be deposited when collected into the state treasury to the credit of the general fund, unless otherwise provided by law."

**Section 2.** Sections 8-6-56 and 8-6-57, Code of Alabama 1975, are hereby amended to read as follows:

"§8-6-56.

"(a) The director of the securities commission shall be a person of good moral character, at least 30 years of age, a resident of Alabama, a member of the Alabama bar and thoroughly familiar with corporate organization, investment banking, investment trusts, the sale of securities and the statistical details of the manufacturing industries and commerce of this state. The securities commission may also require additional qualifications.

"(b) The director, while serving as such, shall not directly or indirectly be financially interested in or associated with any commercial bank, savings bank, trust company, industrial loan or investment company, credit union, building and loan association or any other person subject to the jurisdiction of the commission or the director thereof.

"(c) The salary of the director shall be fixed by the commission in the salary range payable to attorneys in the merit system classification of attorney IV, as determined and set by the commission."

"§8-6-57.

"(a) With the approval of the securities commission and subject to the provisions of the merit system law, the director thereof may designate a deputy director, who shall possess qualifications fixed by the commission with the approval of the personnel department, and who shall perform such duties as the director shall designate.

“(b) In the absence of the director or his inability to act, the deputy director shall perform such duties as are required to be performed by the director.

“(c) The compensation of the deputy director shall be fixed by the commission, subject to the approval of the personnel department, in the salary range payable to attorneys in the merit system classification of attorney IV.”

**Section 3.** There is hereby appropriated from the Alabama Securities Commission Fund to the Alabama Securities Commission for the fiscal year beginning October 1, 1990, and ending September 30, 1991, the sum of \$150,000. Such appropriation shall be in addition to all other funds heretofore and hereinafter appropriated to the Alabama Securities Commission.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall take effect on January 1, 1991.

Approved April 19, 1990

Time: 3:10 P.M.

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Act No. 90-528

H. 15—Rep. Layson

## AN ACT

To reopen the Employees' and Teachers' Retirement Systems of Alabama for purchase of certain military service credit; to provide that as a prerequisite to attaining such credit, said members must be active and contributing members of the Employees' or Teachers' Retirement System of Alabama; and to provide for its termination.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Whenever used in this act, all words and phrases defined in Section 36-27-1 and Section 16-25-1 of the Code of Alabama 1975, shall have the same meanings ascribed to them in such section, unless the context clearly indicates that a different meaning is intended.

**Section 2.** Any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has met the minimum vesting requirements under said system and who has honorable duty consisting of active full time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any

branch of the armed forces, and who has not received credit for such service toward retirement status in the Employees' or Teachers' Retirement System or any other public pension fund including the U.S. Armed Forces, but excluding the federal Social Security program, may be granted by the board of control, membership service for up to 4 years of such of service in the armed forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in Section 3 of this act.

**Section 3.** Any member eligible to claim and purchase such credit for service under Section 2 of this act shall be awarded creditable service under the Employees' or Teachers' Retirement System of Alabama provided he or she shall pay into said retirement system or fund, prior to said member's date of retirement, a sum equal to a percentage of his or her current annual earnable compensation, or average final compensation, whichever is greater, for each year of service purchased; the applicable percentage of this current annual earnable compensation or average final compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation, for each year of service purchased.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:12 P.M.

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Act No. 90-529

H. 304—Rep. Holley

## AN ACT

To create the unclassified merit system positions of Director and Assistant Director of the Southern Environmental Enforcement Network (SEEN), to be responsible for the day-to-day management of the SEEN; to designate the Executive Committee of the SEEN as the responsible body for the selection, hiring and termination of the Director and Assistant Director; to provide that the salaries, and any salary increases, of the Director and Assistant Director be set by the Executive Committee; to provide that the salaries and fringe benefits of the Director and Assistant Director be paid from and in accordance with the federal grants awarded by the Environmental Protection Agency; to provide that the Assistant Director report to the Director and

the Director report directly to the Executive Committee; to provide that said positions be abolished once funding for the project is no longer available.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The positions of Director and Assistant Director of the Southern Environmental Enforcement Network (SEEN) are hereby created. These positions shall be unclassified positions of the Alabama Merit System. The Director and Assistant Director shall be responsible for the day-to-day management of the SEEN.

**Section 2.** The Executive Committee of the Southern Environmental Enforcement Network shall be solely responsible for the selection, hiring and termination of the Director and Assistant Director. The Executive Committee shall also be solely responsible for setting the salaries and approving any salary increases for the Director and the Assistant Director. The salaries and fringe benefits of the Director and Assistant Director shall be paid from the federal grants awarded to the SEEN by the Environmental Protection Agency.

**Section 3.** The Assistant Director shall report to the Director who shall report directly to the Executive Committee.

**Section 4.** The position of Director and Assistant Director of the Southern Environmental Enforcement Network shall be abolished once federal funding for the project is no longer available.

**Section 5.** The provisions of this Act are severable if any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 7.** This Act becomes effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:13 P.M.

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Act No. 90-530

H. 549—Reps. Carothers, Johnson (RG)  
and Beasley

AN ACT

To provide further for the protection of man and animals from rabies; to provide for immunization of domestic animals; to establish a fee schedule; to provide for

penalties and impoundment of animals and their disposition; to provide further for rabies officers; and to repeal sections 3-7-1 through 3-7-13, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act, the following words and phrases shall have the following meanings respectively ascribed to them unless the context clearly indicates otherwise:

(1) "Canine Corps dogs" mean those members of the canine family maintained by governmental agencies for exclusive use in official duties assigned to those agencies. Seeing Eye dogs shall be included within the meaning of this definition.

(2) "Cat" means all members of the domesticated feline (*Felis catus*) family three months of age or older.

(3) "Dog" means all members of the domesticated canine (*Canis familiaris*) family three months of age or older.

(4) "Has been exposed" means seized with the teeth or claws, so that the skin of the person or animal seized has been nipped or gripped, or has been wounded or pierced and includes suspected or confirmed contact of saliva with a break or abrasion of the skin or with any mucous membrane, as determined by a licensed physician.

(5) "Health officer" means a county health officer as defined in section 22-3-2, Code of Alabama 1975.

(6) "Immunization against rabies" means the injection, in a manner approved by the state health officer and the state veterinarian, of antirabies vaccine approved by the state health officer and the state veterinarian. The administration of antirabies vaccine to species other than those for which reliable immunization data is available shall be a violation of this act.

(7) "Impounding officer" means an agent of a county or municipality vested with impounding authority for animals covered under this act.

(8) "Owner" means any person having a right of property in the animal, or who keeps or harbors the animal, or who has it in his care, or acts as its custodian, or who permits the animal to remain on or about any premises occupied by him.

(9) "Person" means individuals, firms, partnerships, and associations.

(10) "Quarantine for rabies observation" means confinement under the direct care, custody, control, and supervision of a licensed veterinarian for a period of 10 days subsequent to the date of the exposure, or as otherwise directed by the state health officer.

(11) "Rabies officer" means a licensed veterinarian as defined in section 34-29-61, Code of Alabama 1975, duly appointed by the county board of health and approved by the state health officer and state veterinarian.

**Section 2.** (a) Every owner of a dog or cat required to be immunized for rabies as defined in this act, shall cause said dog or cat to be immunized by the rabies officer, his authorized representative, or any duly licensed veterinarian, when said animal reaches three months of age and annually thereafter. Evidence of such immunization shall consist of a printed certificate furnished in triplicate by the Alabama Department of Public Health, upon which shall be legibly inscribed: a description of the dog or cat; its age, color, sex, breed, and tattoo identification, if any; the name and address of the owner; the lot number and type of vaccine used (modified live virus, inactivated virus); the name of the manufacturer and amount of vaccine injected; and a serially numbered tag bearing the same number and year as that of the certificate. The certificate shall be dated and signed by the person authorized to administer the vaccine. Certificates not in keeping with the provisions of this section, or certificates issued by those persons unauthorized to administer rabies vaccine, shall not be valid. The original copy of the certificate prescribed herein shall be delivered to the owner of the dog or cat immunized, one copy to the local health department, and one copy to be retained by the rabies officer. The certificate of immunization shall be valid for a period of one year for all dogs and cats required to be immunized under this act. Immunization certificates may be destroyed three years after date of issuance.

(b) It shall be unlawful and in violation of the provisions of this act for any person to import, receive, sell, offer for sale, barter, or exchange animal antirabies vaccine, other than antirabies vaccine intended for human use, to anyone except a duly licensed veterinarian.

**Section 3.** The rabies officer may charge for such immunization a sum established by a committee consisting of the state health officer, the state veterinarian, and the president of the Alabama Veterinary Medical Association, and approved by the state board of health prior to the first day of January each year. The committee shall consider all cost factors in administering the vaccine as the economy dictates, including but not limited to the current prices of vaccines and tags.

**Section 4.** Coincident with the issuance of the certificate of immunization, the rabies officer, his authorized representative, or any duly licensed veterinarian, who provided the certificate shall furnish a serially numbered tag bearing the same number and year as that of the certificate, which tag shall at all times be attached to

a collar or harness worn by the dog or cat for which the certificate and tag have been issued.

**Section 5.** In the event of tag loss when the same has been legally issued, every replacement thereof shall be upon such terms as may be agreed upon with the rabies officer or veterinarian by whom the animal has been immunized. In such instance, a new certificate marked "duplicate" may be issued setting forth the number of the new tag and the certificate issued and distributed according to Section 2 of this act.

**Section 6.** The owner of any dog or cat found not wearing the evidence of current immunization as provided herein or for which no certificate of current immunization can be produced, and which is apprehended by an officer or other person charged with the enforcement of this act, shall forthwith be subject to a penalty to be imposed by the rabies officer not to exceed an amount equal to twice the state approved charge for immunization, in addition to the fee heretofore prescribed for immunization. When collected, the said penalty shall accrue to the rabies officer or his agent, except in the case of a rabies officer employed full-time on salary, in which case the penalty shall accrue to the employing agency or agencies.

**Section 7.** It shall be the duty of each and every county in the state to provide a suitable county pound and impounding officer for the impoundment of dogs and cats found running at large in violation of the provisions of this act. Every municipality with a population over five thousand in which the county pound is not located shall maintain a suitable pound or contribute their pro rata share to the staffing and upkeep of the county pound. When dogs and cats are impounded and if the owner thereof is known, such owner shall be given direct notice of the impoundment of said animal or animals belonging to him; or the impounding officer may make said animal or animals available for adoption after a period of not less than seven days.

**Section 8.** All dogs and cats which have been impounded for lack of rabies immunization in accordance with the provisions of this act, due notice of which shall have been given to the owner as provided in the preceding section, may be humanely destroyed and disposed of when not redeemed by the owner within seven days. In case the owner of an impounded dog or cat desires to make redemption thereof, he may do so on the following condition: He shall pay for the immunization of the animal and the penalty as prescribed in Section 6 of this act if certificate of current immunization cannot be produced, and in addition, pay for the board of the animal for the period for which it was impounded. The amount paid for the board of the dog or cat shall accrue to the credit of the city or county, depending upon the jurisdiction of the pound in which the

animal was confined. At his discretion, the said impounding officer may sell any dog or cat not redeemed or claimed or otherwise disposed of, to any purchaser desiring the said animal, which said purchaser must comply with all the provisions of this act.

**Section 9.** (a) Whenever the rabies officer or the health officer shall receive information that a human being has been bitten or exposed by a dog or cat required to be immunized against rabies, the health officer or his authorized agent shall cause said dog or cat to be placed in quarantine under the direct supervision of a duly licensed veterinarian for rabies observation as prescribed in Section 1 of this act. It shall be unlawful for any person having knowledge that a human being has been bitten or exposed by a dog or cat to fail to notify one or more of the aforementioned officers.

(b) When said dog or cat is unowned, as determined by the rabies officer or the health officer after reasonable investigation, or where the owner of a dog or cat agrees in writing, or when ordered by the health officer, the animal shall be humanely destroyed immediately after the exposure and the head shall be submitted for rabies examination to the state health department laboratory.

(c) The period of quarantine for animals other than domesticated dogs and cats which have bitten or exposed a human being shall be determined by the Alabama Department of Public Health upon consultation with the U. S. Public Health Services. Provided, however, for those animal species where reliable epidemiologic data are lacking regarding duration of rabies virus secretion from the salivary glands, said animals shall be humanely destroyed and the head submitted for rabies examination to the state health department laboratory.

(d) It shall be a violation of this act for the owner of such animal to refuse to comply with the lawful order of the health officer in any particular case. It is unlawful for the owner to sell, give away, transfer to another location or otherwise dispose of any such animal that is known to have bitten or exposed a human being until it is released from quarantine by the rabies officer, duly licensed veterinarian or by the appropriate health officer.

(e) Instructions for the quarantine of the offending animal shall be delivered in person or by telephone to the owner by the health officer or his authorized agent. If such instructions cannot be delivered in such manner, they shall be mailed by regular mail, postage prepaid and addressed to the owner of the animal. The affidavit or testimony of the health officer or his authorized agent, who delivers or mails such instructions, shall be prima facie evidence of the receipt of such instructions by the owner of the animal. Any expenses incurred in the quarantine of the offending animal under this and the preceding section shall be borne by the owner.



(f) The veterinarian under whose care the offending animal has been committed for quarantine shall promptly report the results of his observation of said animal to the attending physician of the human being bitten or exposed and the appropriate health officer.

(g) Canine Corps dogs and Seeing Eye dogs shall be exempt from the quarantine period where such exposure occurs in the line of duty and evidence of proper immunization against rabies is presented, but shall be examined immediately at the end of 10 days by a licensed veterinarian, who shall report the results of his examination to the appropriate health officer as previously authorized.

**Section 10.** Those domesticated species, for which antirabies vaccine is recognized and recommended, upon exposure or potential exposure to a known rabid animal, shall be humanely destroyed or slaughtered immediately. Provided, however, the owner may have the option of quarantining said animals based on the recommendations of the Alabama Department of Public Health upon consultation with the U.S. Public Health Service.

**Section 11.** (a) It shall be the responsibility of the county board of health to nominate annually one duly licensed veterinarian from each county within the state for the position of rabies officer. Applications for this position may be received from any duly licensed veterinarian residing within the county, or in the event that no applications are received, from the Alabama Veterinary Medical Association. Said applications shall be provided to the chairman of each county board of health during the month of November. It shall be the responsibility of the county board of health, within or prior to the month of January of the appointing year, to select and appoint a nominee, subject to the approval of the state health officer and the state veterinarian. The appointee's term of office shall expire on December 31 of the year of appointment; provided, however, that he shall be eligible for reappointment. The rabies officer may be removed from office, for cause, by the county board of health or the state health officer.

(b) Appointments not made within the prescribed time limits specified in this section shall become the joint prerogative of the state health officer and the state veterinarian after due consultation with the appropriate health officer.

(c) For the purpose of providing proper enforcement of this act, the county board of health is hereby invested with general supervisory and administrative authority for the implementation of this act. It shall be the duty of the rabies officer to immunize for rabies all dogs and cats covered under the provisions of this act and he may employ as many licensed veterinarians to serve as deputies to aid him as he may desire. The rabies officer and his deputies in each county are

clothed with limited police powers to the extent that they may issue citations for violations of this act as an agent of the county board of health, and shall not be subject to the limitations of section 36-21-50, Code of Alabama 1975. The sheriff and his deputies in each county and the police officers in each incorporated municipality shall be aides, and are hereby instructed to cooperate with said rabies officer in carrying out the provisions of this act. The compensation of the rabies officer and his deputies shall be limited to the fees collected from enforcement of the provisions of this act.

**Section 12.** Any person violating or aiding or abetting the violation of any provision of this act, or counterfeiting or forging any certificate or tag, or making any misrepresentation in regard to any matter prescribed by this act or rule promulgated hereunder or except as otherwise provided, or resisting, obstructing, or impeding any authorized officer in enforcing the provisions of this act, or refusing to produce for immunization any animal in his possession for which antirabies vaccine is recognized and recommended, or for failing to report an animal bite, shall be charged with a Class C misdemeanor, and for the purpose of enforcing this act, shall be fined not less than \$25.00 nor more than \$100.00, and for the purpose of enforcing this act, resort may be had to any court of competent jurisdiction.

**Section 13.** (a) The state health officer, upon request of authorized local officials, may place certain areas of the state under a rabies quarantine to prevent the spread of rabies. In extreme situations, the state health officer may place the area under quarantine without waiting for local request.

(b) Whenever the state health officer or local health authorities are convinced that the situation is conducive to the spread of rabies, additional measures may be imposed as are deemed necessary to prevent the spread of rabies among dogs, cats, and other animals.

**Section 14.** Nothing in this act shall be held to limit in any manner the power of any municipality to prohibit dogs or cats from running at large, regardless of rabies immunization status as herein provided; nor shall anything in this act be construed, in any manner, to limit the power of any municipality to further control and regulate dogs or cats in such municipality.

**Section 15.** The state board of health is authorized to adopt and promulgate rules for the enforcement of this act, which rules shall have the force and effect of law.

**Section 16.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 17.** All laws or parts of laws which conflict with this act are hereby repealed; and sections 3-7-1 through 3-7-13, Code of Alabama 1975, are specifically repealed.

**Section 18.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:15 P.M.

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Act No. 90-531

H. 165—Rep. Starkey

### AN ACT

To amend Sections 41-9-782 and 41-9-783, Code of Alabama 1975 relating to the Tennessee Valley Exhibit Commission to authorize the Commission to issue and sell a second issue of its revenue bonds in a principal amount of not exceeding \$1,500,000 in order to pay certain of the costs of completing the constructing and equipping of an information and exhibit center of the Commission; to make a limited appropriation and pledge of certain moneys retained by the State of Alabama from in-lieu-of-taxes payments made by the Tennessee Valley Authority for the benefit of said second issue of revenue bonds; and to require the Commission to reimburse the State of Alabama for all said moneys paid by the State of Alabama to the Commission, with interest thereon, from any surplus funds of the Commission that shall be available for that purpose.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-9-782 of the Code of Alabama 1975 is hereby amended to read as follows:

“§41-9-782. Authority of commission generally.

“The commission shall be authorized:

(1) To investigate and select an available site for housing the exhibits, including the surrounding grounds, in cooperation with the Tennessee valley authority and the community, taking into consideration all pertinent factors affecting the suitability of such site;

(2) To acquire by rent or lease agreement or otherwise the necessary housing facilities and to establish, improve and enlarge the available facility, including providing it with necessary equipment, furnishings, landscaping and related facilities, including parking areas and ramps, roadways, sewers, curbs and gutters;

(3) To enter into such contracts and cooperative agreements with the local, state and federal governments, with agencies of such governments, including the Tennessee valley authority, with private

individuals, corporations, associations and other organizations as the commission may deem necessary or convenient to carry out the purpose of this article, such contracts and agreements to include leases to private industry;

(4) To borrow money from private sources or such other sources as may be acceptable to the commission under such terms and conditions as may be provided by law and, in order to provide security for the repayment of any such private loans, to pledge such future revenues from admissions and any other sources as may from time to time be necessary or desirable;

(5) To issue and sell at any time, and from time to time, its revenue obligations for the purpose of providing funds to acquire, construct, enlarge, improve, equip and maintain a facility and for the payment of obligations incurred for such purposes. The principal and interest on any such obligations shall be payable from revenues derived from the project and from such other sources (including, to the extent applicable, the TVA Payments referred to in section 41-9-783) as the commission may deem necessary to provide sufficient security for the marketing of said obligations. In addition to any obligations of the commission that shall be payable from any other source or sources, the commission is further authorized to issue and sell revenue obligations in an aggregate principal amount of not to exceed five (5) million dollars to construct and equip the information and exhibit center as provided for in section 41-9-780, for the benefit of which the said TVA Payments shall be pledged and appropriated as hereinafter provided. Any revenue obligations issued by the commission may thereafter at any time (whether before, at or after the maturity thereof) and from time to time be refunded by the issuance of refunding obligations, which revenue obligations or refunding obligations may be sold by the commission at public or private sale at such price or prices as may be determined by its executive committee to be most advantageous. The commission may pay all expenses, premiums and commissions which its executive committee may deem necessary and advantageous in connection with any financing done by it. Neither the full faith and credit nor taxing powers of the state of Alabama or any political subdivision thereof shall be pledged to the payment of the principal of, premium, if any, on or interest on said obligations;

(6) To make such contracts in the issuance of its obligations as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the commission from the investment of the proceeds of the sale of such obligations or from any other source whatsoever;

(7) To accept public or private gifts, grants and donations;

(8) To acquire property by purchase, lease, gift or license, such power not to include the purchase of a site for the facility;

(9) To receive and deposit into the State Treasury funds from all donations, income and revenue from any source whatsoever coming into the Commission and expend such funds for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this article. However, such funds shall be paid out only by warrant of the Comptroller upon the Treasurer, upon itemized vouchers, approved by the Executive director; provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through 41-19-12 of the Code of Alabama 1975, as amended, and only in amounts as stipulated in the general appropriation or other appropriation bills;

(10) To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own and to transfer, assign, sell, convey or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

(11) To employ an executive director and such additional personnel as may be necessary to accomplish the purposes of this article. The executive director and such additional personnel as may be employed by the commission will serve at the pleasure of the commission. The commission shall fix the compensation of the executive director, and such additional personnel and such compensation shall be paid from any funds of the commission. The commission shall designate the duties and authority of the executive director and such additional personnel. The executive director and such additional personnel shall not be subject to the provisions of the state Merit System Act; provided, however, that they shall be eligible for participation in the state health insurance plan and benefits as provided, and they shall be eligible for participation in the state employees' retirement system under the provisions governing counties, cities, towns and other quasi-public organizations of the state;

(12) To make such rules and regulations as the commission may deem necessary and desirable to provide for the operation, management and control of the facility; and

(13) To perform such other acts necessary or incidental to the accomplishment of the purposes of this article, whether or not specifically authorized in this section, and not otherwise prohibited by law."

**Section 2.** Section 41-9-783 of the Code of Alabama 1975 is hereby amended to read as follows:

“§41-9-783. Revenue bonds deemed exclusive obligation of commission—Appropriation and pledge of TVA Payments.

“All revenue obligations issued by the commission shall be solely and exclusively the obligations of the commission and shall not create an obligation or debt of the state or of any county or of any municipality within the state. For the purpose of providing additional funds to enable the commission to pay at their respective maturities the principal of and the interest on an issue of revenue bonds in an amount not to exceed \$3,500,000 to pay the costs of constructing and equipping the said information and exhibit center or to pay the principal of and the interest on any revenue refunding bonds issued to refund any revenue bonds that shall be issued for that purpose, there is hereby irrevocably pledged to such purpose and hereby appropriated such amounts as may be necessary for such purpose from the revenues retained by the State of Alabama from the in-lieu-of-taxes payments made by Tennessee Valley Authority following the distribution of a portion of such payments to certain counties in the State of Alabama as provided in section 40-28-2, Code of Alabama 1975, or any successor law or statute. In order to carry out the said pledge and appropriation, the entire revenues so retained by the State of Alabama from the aforesaid in-lieu-of-taxes payments made by Tennessee Valley Authority (which are herein called the “TVA Payments”) in each fiscal year of the State of Alabama shall be deposited in the state treasury to the credit of a special fund to be called the “Tennessee Valley Exhibit Commission Trust Fund” (herein called the “Trust Fund”), until an amount equal to the principal of and the interest on any such revenue bonds or revenue refunding bonds that shall come due in the then next succeeding fiscal year shall be on deposit in the Trust Fund. Further, for the purpose of providing additional funds to enable the commission to pay at their respective maturities the principal of and the interest on a second issue of revenue bonds of the commission in a principal amount not to exceed \$1,500,000, the net proceeds of which shall be used to pay the costs of constructing and equipping the said information and exhibit center or to pay the principal of and the interest on any revenue refunding bonds issued to refund any revenue bonds that shall be issued for that purpose, there is hereby irrevocably pledged to such purpose and hereby appropriated, in addition to all amounts that shall have heretofore been so pledged and appropriated for the benefit of the aforesaid issue of revenue bonds of the commission in an amount not to exceed \$3,500,000, such amounts from the TVA Payments as may be necessary to pay all such principal and interest at their respective maturities. In order to carry out any such pledge and appropriation for the benefit of each of the foregoing

issues of revenue bonds of the commission the entire TVA Payments in each fiscal year shall be deposited to the credit of the trust fund until an amount equal to the principal of and the interest on each of the aforesaid issues of revenue bonds of the commission, or any revenue refunding bonds that shall be issued by the commission to refund any such revenue bonds, maturing in the then next succeeding fiscal year shall be on deposit in the trust fund. The amounts deposited into the trust fund in each fiscal year shall be disbursed and are hereby appropriated to the extent necessary to pay at their respective maturities, or to redeem under the terms thereof, the principal of and the interest on each of the foregoing issues of revenue bonds of the commission, or any revenue refunding bonds that may be issued to refund either of the said issues of revenue bonds that shall be so issued for such purpose.

In each fiscal year of the State of Alabama, beginning in the fiscal year in which any such revenue bonds are issued by the commission, all moneys retained by the State of Alabama from the TVA Payments shall be so deposited into the Trust Fund until the amount on deposit in the Trust Fund shall equal the total principal and interest becoming payable with respect to the said revenue bonds or revenue refunding bonds in the next succeeding fiscal year of the State. After the said amount shall have been deposited into the Trust Fund in each fiscal year, all other moneys retained by the State of Alabama from TVA Payments shall be credited to the state general fund. Not less than thirty (30) days before the end of each fiscal year, beginning with the fiscal year in which the said revenue bonds shall be issued, the executive director of the commission shall determine whether or not the net revenues of the commission derived from all sources whatsoever during the then current fiscal year, after payment of all the costs of operating the said information and exhibit center and all other expenses of the commission, shall be sufficient or insufficient to pay the principal and interest that will come due during the next succeeding fiscal year on those bonds of the commission for payment of which TVA Payments have been pledged. Not less than fifteen (15) days before the end of each fiscal year the executive director of the commission shall file a notification with the Director of Finance stating whether such net revenues shall be sufficient or insufficient to pay the said principal and interest coming due in the next succeeding fiscal year. If the said executive director shall determine that the said net revenues of the commission shall not be sufficient to pay the said principal and interest during the then next succeeding fiscal year of the state, he shall so state in the said notification and shall specify the amount of any expected deficiency, supported by such documentation as shall be deemed appropriate by the Director of Finance. Upon receipt of said notification and such other documentation as he may specify, the Director of

Finance shall cause to be transferred, and to the extent herein provided there is hereby in such event appropriated to the commission, solely for the purpose of paying such principal and interest, an amount equal to the lesser of (i) the amount of any expected deficiency as determined by the Director of Finance or (ii) the entire amount then on deposit in the Trust Fund. Following any such transfer, all moneys retained by the State of Alabama from TVA Payments shall again be deposited into the Trust Fund until an amount equal to the entire principal and interest coming due on the said bonds in the then next succeeding fiscal year shall again be on deposit in the Trust Fund, after which all moneys retained by the State of Alabama from TVA Payments shall again be credited to the state general fund.

If at the end of any fiscal year of the Commission there shall be on deposit in the state treasury any surplus funds for the account of the commission, after payment of the principal of and the interest on any outstanding revenue bonds of the commission and all costs of operating, maintaining and improving all facilities of the commission in each such fiscal year, such surplus moneys shall first be applied to the reimbursement to the trust fund of all moneys previously withdrawn from the trust fund for the account of the commission, with interest at the legal rate on all such moneys from the date of their withdrawal from the trust fund. If, after all moneys so withdrawn from the trust fund shall have been repaid with interest thereon, any such surplus moneys shall be on deposit in the state treasury for the account of the commission, such surplus moneys shall be transferred into the general fund of the state promptly after the close of each such fiscal year.

At such time as the entire principal of and the interest on any revenue bonds or revenue refunding bonds issued by the commission for the payment of which TVA Payments have been pledged have been paid, no further TVA Payments shall be deposited into the Trust Fund, and all moneys then on deposit in the Trust Fund shall be paid into the general fund."

**Section 3.** The provisions of this Act are severable. If any part of this Act is declared to be invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:17 P.M.



Act No. 90-532

H. 168—Rep. Johnson (RG)

## AN ACT

Relating to the corporate powers of health care authorities now or hereafter organized or reincorporated pursuant to the provisions of Act No. 82-418 enacted at the 1982 Regular Session of the Legislature, as supplemented by the provisions of Act No. 87-745 enacted at the 1987 Regular Session of the Legislature (Articles 11 and 11A of Chapter 21 of Title 22 of the Code of Alabama 1975, as amended); to empower any such health care authority to participate as a shareholder in a corporation, as a joint venturer in a joint venture, as a general or limited partner in a limited partnership or general partnership, as a member in a nonprofit corporation, or as a member of any other lawful form of business organization, which provides health care or engages in activities related thereto; to empower any such health care authority to provide financing for, to guarantee loans for and to perform other actions for such corporations, joint ventures, partnerships, non-profit corporations or other lawful forms of business organization; to empower any such health care authority to elect all or any of the members of the respective boards of directors of certain non-profit corporations, subject (in certain circumstances) to the consent of the governing body of each authorizing subdivision of such authority; to empower any such health care authority to use its assets and resources for any lawful purpose, to the extent such assets and resources are not needed for health care services and related activities; to empower any such health care authority to create, establish, acquire, operate and support subsidiaries and affiliates, either for-profit or not-for-profit, and to create, establish and support certain non-affiliated corporations or other lawful business organizations; to empower any such health care authority to indemnify, against certain expenses, directors or officers or former directors or officers thereof, or any person who may have served at the request of such health care authority as a director or officer of one or more of certain other corporations or lawful business organizations, and to make any other indemnification now or hereafter authorized by law; and to provide that the provisions hereof conferring powers on health care authorities are declarative of existing statutory law and shall therefore have both a prospective and a retroactive or retrospective operation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. As used in this Act, the following terms shall have the following respective meanings unless the context clearly indicates otherwise:

“Authority” means any public corporation now or hereafter organized or reincorporated, as the case may be, pursuant to the provisions of the Health Care Authorities Act.

“Authorizing Subdivision” means each County and Municipality with the Governing Body of which the application for the incorporation of any Authority under the Health Care Authorities Act or the reincorporation of a public corporation under the Health Care Authorities Act was filed.

“County” means any county in the State of Alabama.

“Governing Body” means, with respect to a County, its County Commission or other like governing body, and, with respect to a

Municipality, its city or town council, board of commissioners or other like governing body.

“Health Care Authorities Act” means Act No. 82-418 enacted at the 1982 Regular Session of the Legislature of Alabama, as supplemented by Act No. 87-745 enacted at the 1987 Regular Session of the Legislature of Alabama (codified as Articles 11 and 11A of Chapter 21 of Title 22 of the Code of Alabama 1975, as amended).

“Municipality” means an incorporated city or town of the State of Alabama.

**Section 2. Powers of Authorities.** In addition to all other powers at any time conferred on it by law, and subject to any express provisions of its certificate of incorporation or certificate of reincorporation to the contrary, an Authority shall (to the extent at the time not prohibited by the Constitution of Alabama) have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

(a) To participate as a shareholder in a corporation, as a joint venturer in a joint venture, as a general or limited partner in a limited partnership or a general partnership, as a member in a non-profit corporation or as a member of any other lawful form of business organization, which provides health care or engages in activities related thereto;

(b) To make or arrange for loans, contributions to capital and other debt and equity financing for the activities of any corporation of which such Authority is a shareholder, any joint venture in which such Authority is a joint venturer, any limited partnership or general partnership of which such Authority is a general or limited partner, any non-profit corporation in which such Authority is a member or any other lawful form of business organization of which such Authority is a member, and to guarantee loans and any other obligations for such purposes;

(c) To elect (i) all or any of the members of the board of directors of any non-profit corporation of which such Authority is a member or of which any one or more of the members of the board of directors of such Authority is an ex officio member (subject, however, to any contrary or inconsistent provision of the articles of incorporation or bylaws of such non-profit corporation) and (ii) all or any of the members of the board of directors of any non-profit corporation that has no members and whose article of incorporation or bylaws provide for the election of one or more of the members of its board of directors from among members of the board of directors of such Authority (subject, however, to any contrary or inconsistent provision of the articles of incorporation or bylaws of such non-profit corporation); provided, however, that if the board of directors of an

Authority adopts, and files for record in the office of the judge of probate of that county in which its certificate of incorporation or certificate of reincorporation is filed, a certified copy of a resolution to such effect, the election by such Authority of any member of the board of directors of any non-profit corporation who it would otherwise have the right to elect shall be effective only upon the consent of the Governing Body of each Authorizing Subdivision with respect to such Authority;

(d) To create, establish, acquire, operate or support subsidiaries and affiliates, either for-profit or non-profit, to assist such Authority in fulfilling its purposes;

(e) To create, establish or support non-affiliated for-profit or non-profit corporations or other lawful business organizations which operate and have as their purposes the furtherance of such Authority's purposes;

(f) Without limiting the generality of the preceding subsections (e) and (f), to accomplish and facilitate the creation, establishment, acquisition, operation or support of any such subsidiary, affiliate, non-affiliated corporation or other lawful business organization, by means of loans of funds, leases of real or personal property, gifts and grants of funds or guarantees of indebtedness of such subsidiaries, affiliates and non-affiliated corporations;

(g) To indemnify any person (including for purposes of this paragraph such person's estate and personal representatives) made or threatened to be made a party to any action or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a board member, officer, or a physician acting as an agent of such Authority in the performance of duties delegated by the Board of Directors as contained in the medical staff bylaws, medical staff rules and regulations, or policies adopted by the Board of Directors of such Authority, or serves or served any other corporation or other entity or organization (whether for-profit or not-for-profit) in any capacity at the request of the Authority while he or she was a board member, officer of the Authority, or a physician acting as an agent of such Authority as stated above, against all judgments, fines, amounts paid in settlement and reasonable expenses (including, without limitation, attorneys' fees actually and necessarily incurred) as a result of any such action or proceeding, or any appeal therein; provided, however, that nothing herein shall be construed as permitting indemnification of any person:

(1) in connection with any malpractice action or proceeding arising out of or in any way connected with such person's practice of his profession;

(2) in connection with an action or proceeding by such Authority in which a person is adjudged liable to such Authority; or

(3) in connection with any other action or proceeding in which such person is adjudged liable on the basis that personal benefit was improperly received by such person.

(h) To make any other indemnification now or hereafter authorized by law; and

(i) To have and exercise all powers necessary or convenient to effect any or all the purposes for which Authorities are organized.

**Section 3. Legislative Intention.** It is the intent of the Legislature by the passage of this Act to clarify existing provisions of statutory law respecting the powers of Authorities. To that end, the grant to such Authorities of the powers specified in Section 2 hereof shall be deemed declarative of existing statutory law and shall therefore have both a prospective and a retroactive or retrospective operation.

**Section 4. Severability.** The provisions of this Act are severable. If any part of this Act is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remaining parts hereof.

**Section 5. Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:18 P.M.

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Act No. 90-533

H. 31—Rep. Penry

### AN ACT

To further provide for exemptions from ad valorem taxation, so as to include all vessels and equipment thereon, used predominantly in the business of commercial shrimping by the owner thereof; and to amend Section 40-9-1, Code of Alabama 1975, as amended, relating to ad valorem exemptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-9-1, Code of Alabama 1975, as amended, is hereby further amended to read as follows:

“§40-9-1.

“The following property and persons shall be exempt from ad valorem taxation and none other:

“(1) All bonds of the United States and this state and all county and municipal bonds issued by counties and municipalities in this

state, all property, real and personal, of the United States and this state and of county and municipal corporations in this state; all cemeteries; all property, real and personal, used exclusively for religious worship, for schools or for purposes purely charitable; provided, that property, real or personal, owned by any educational, religious or charitable institution, society or corporation let for rent or hire or for use for business purposes shall not be exempt from taxation, notwithstanding that the income from such property shall be used exclusively for education, religious or charitable purposes; all mortgages, together with the notes, debts and credits secured thereby on real and personal property situated in this state, which mortgages have been filed for record and the privilege tax paid thereon; all security agreements and security interests under the Uniform Commercial Code, together with the notes, debts and credits secured thereby; all money on deposit in any bank or banking institution and all other solvent credits; all warrants issued by county boards of education and city boards of education for the purpose of erecting, repairing, furnishing school buildings or for other school purposes;

“(2) All property, real or personal, used exclusively for hospital purposes, to the amount of \$75,000.00, where such hospitals maintain wards for charity patients or give treatment to such patients; provided, that the treatment of charity patients constitutes at least 15 percent of the business of such hospitals; provided further, that such hospital need not be assessed for taxation if the owner or manager shall file with the county tax assessor wherein such hospital is located within the time allowed for assessing such property for taxation a certificate that such hospital has done 15 percent charity work in the preceding tax year; and further provided, that such hospital through its owner or manager shall have until the expiration of the preceding tax year to class its work and ascertain whether or not such hospital has done 15 percent of its treatment of patients as charity work;

“(3) The shares of the capital stock of any corporation owning and operating a hospital, to the extent of \$75,000.00 in value; provided, that said corporation maintains wards for charity patients and gives treatment to such patients, which treatment constitutes at least 15 percent of the business of the hospital of said corporation; provided, that the total exemption granted to any such corporation shall not exceed \$75,000.00, taking into consideration its real and personal property and the value of its shares of capital stock;

“(4) All property owned by the American Legion or by Veterans of Foreign Wars, or any post thereof; provided, that such property is used and occupied exclusively by said organization;

“(5) All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions;

"(6) The libraries of ministers of the gospel, all libraries other than those of a professional character and all religious books kept for sale by ministers of the gospel and colporteurs;

"(7) The property of deaf mutes and insane persons to the extent of \$3,000.00 and the property of blind persons to the extent of \$12,000.00;

"(8) All family portraits;

"(9) All cotton, livestock or agricultural products which have been raised or grown in the state of Alabama and which shall remain in the hands of the producer thereof, or his landlord, or in the hands of a cooperative association for all time, and for a period of one year in the hands of the purchaser or the manufacturer;

"(10) All cotton, wherever grown, stored in licensed warehouses in the state of Alabama for a period not exceeding 12 months;

"(11) Provisions and supplies on hand for the current year for the use of the family and the making of crops; all wearing apparel; farming tools; tools and implements of mechanics to the value of \$200.00; all livestock, including mules, studs, jacks and jennets, cattle, horses, cows, calves, hogs, sheep and goats; household and kitchen furniture and one sewing machine;

"(12) No license or taxation of any character, except franchise taxes provided by section 229 of the Constitution of the state of Alabama, shall be collected or required to be paid to the state or any county or municipality therein by any state or county fair, agricultural association, stock, kennel or poultry show. Athletic stadiums owned and controlled by universities, schools or colleges and which are used exclusively for the purpose of promoting intercollegiate or interschool athletics; provided, that the revenue received from athletic stadiums, when admission is charged, shall be used for the benefit of athletic associations of such universities, colleges or schools. Nothing contained in this subdivision shall be construed to prohibit any municipality, county or state from imposing any license tax upon or for the privilege of engaging in the business of supplying services for hire or reward or selling commodities other than livestock, farm products or farm implements or conducting or operating devices or games of skill or amusements or other games or devices, or conducting or operating shows, displays or exhibits other than shows, displays or exhibits of agricultural implements, farm products, livestock and athletic prowess;

"(13) All material, including without limitation coke, to be compounded or further manufactured, when stocked at any plant or furnace for manufacturing purposes in Alabama;

“(14) All articles manufactured in Alabama, including pig iron, in the hands of the producer or manufacturer thereof, for 12 months after its production or manufacture;

“(15) All property, both real and personal, owned by any unit or organization of the Alabama national guard officially recognized as such by the federal government and organized and maintained by the state, and all property owned by shares and used exclusively by and kept exclusively in the possession of any such unit or organization of the Alabama national guard, the annual rent or hire of which is not in excess of the annual state, county and municipal taxes on said property shall be exempt from taxation by the state, and the county and municipality in which the same may be situated;

“(16) All poultry;

“(17) The property of all incompetent veterans to the value of \$3,000.00;

“(18) The following items of personal property when owned by individuals for personal use in the home or usually kept at the home of the owner and not carried as stocks of merchandise, namely: libraries; phonographs; pianos and other musical instruments; paintings; precious stones, jewelry, plate silverware, ornaments and articles of taste; watches and clocks; wagons, buggies, bicycles, guns, pistols, canes, golf sticks, golf bags and sporting goods; money hoarded; radios, mechanical and electrical refrigerators; electrical appliances;

“(19) All property owned by the Benevolent and Protective Order of Elks, Fraternal Order of Police, Fraternal Order of Eagles or Loyal Order of Moose, or lodge thereof; provided, that such property is used and occupied exclusively by such organization;

“(20) All devices, facilities or structures, and all identifiable components thereof or materials for use therein, acquired or constructed primarily for the control, reduction or elimination of air or water pollution;

“(21) Tobacco leaf stored in hogsheads;

“(22) All farm tractors, as that term is defined in subdivision (19) of section 32-1-1.1; and all farming implements, as that term is used in subdivision (5) of section 40-11-1, as amended, when used exclusively in connection with agricultural property as defined in subdivision (b)(3) of section 40-8-1, as amended;

“(23) All stocks of goods, wares and merchandise described in subdivision (4) of section 40-11-1, as amended; and

“(24) All aircraft, replacement parts, components, systems, supplies and sundries affixed or used on said aircraft, and ground support

equipment and vehicles used by or for the aircraft, when used by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words "hub operation within this state" shall be construed to have all of the following criteria:

"a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

"b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

"(25) All vessels and equipment thereon, used predominantly in the business of commercial shrimping by the owners thereof."

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:19 P.M.

Act No. 90-534

H. 492—Rep. Harvey

### AN ACT

To relate to cost-of-living increases for employees' retirement system retirees from public hospitals; to authorize any quasi-public or private hospital which was previously a public hospital to give cost-of-living increases to any retiree of the employees' retirement system who was employed by any such hospital when it was a public hospital and who was a member of the employees' retirement system during such employment; to provide that such cost-of-living increases may be granted from certain foundation or trust funds established from hospital earnings during the time the hospital was a public facility; and to authorize any public hospital which has withdrawn from the employees' retirement system to pay certain cost-of-living increases to retirees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The governing body of any quasi-public or private hospital which was previously a public hospital is hereby authorized to give cost-of-living increases to any retiree of the employees' retirement system who was employed by any such hospital when it



was a public hospital and who was a member of the employees' retirement system pursuant to section 36-27-6, Code of Alabama 1975, during such employment. Such cost-of-living increases may be given whether present employees of the quasi-public or private hospital are participating members of the employees' retirement system or not.

**Section 2.** The cost-of-living increases authorized by section 1 hereof may be granted from any foundation or trust funds which were established for health and related purposes from the residual earnings of hospital activities during the time the hospital was a public facility.

**Section 3.** Any public hospital which has withdrawn from participation in the employees' retirement system is hereby authorized to pay any cost-of-living increases granted by law, including but not limited to the 1985 and 1988 cost-of-living increases, to any retiree of the employees' retirement system who was employed by any such public hospital and who was a member of the employees' retirement system pursuant to Section 36-27-6, Code of Alabama 1975, during such employment.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:20 P.M.

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Act No. 90-535

H. 153—Rep. Campbell

## AN ACT

To amend Sections 40-4-5, 40-5-6, 40-5-14, 40-5-17, 40-7-19, 40-7-32, 40-10-27, and 40-10-29, Code of Alabama 1975, relating to the fees allowed tax assessors, tax collectors, revenue commissioners, license commissioners, or other such ad valorem tax officials, and probate judges of the various counties of this state, for performing certain functions and duties of their office, so as to increase said fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 40-4-5, 40-5-6, 40-5-14, 40-5-17, 40-7-19, 40-7-32, 40-10-27, and 40-10-29, Code of Alabama 1975, are hereby amended to read as follows:

“§40-4-5.

“For making the demand on the taxpayer for his list of property to be returned and for each return of property to ‘owner unknown,’ to be charged to the taxpayer or property assessed and collected with the taxes, the assessor shall be entitled to \$5.00, to be entered upon the return and assessment. But the assessor shall be entitled to only one demand fee against each taxpayer. For serving each subpoena for state witnesses or notice issued by order of the department of revenue or board of equalization, the assessor shall be entitled to receive \$5.00, to be taxed against the taxpayer and collected with the taxes, if the case made against such taxpayer is sustained; otherwise, he shall receive no fees for the serving of such subpoena.”

“§40-5-6.

“For making actual demand on delinquent taxpayers, the collector shall be entitled to receive a fee of \$5.00 from each taxpayer on whom such demand is made, which shall be charged against such taxpayer and collected for the use of the collector in the same manner and by the same means as taxes are collected, but he shall charge only one fee against each taxpayer. For making a levy on and sale of personal property for the collection of taxes, the collector shall be allowed a fee of \$5.00 to be collected out of the property, and, in addition thereto, he shall be authorized to collect out of such property the actual expenses of keeping and moving the same to the place of sale. The collector may sell any personal property levied on at any place in the precinct that he may determine or may move the same to the courthouse of the county for sale. For the levy on and sale of a tract, parcel or lot of land assessed to one owner, or to ‘owner unknown,’ the collector shall receive a fee of \$5.00 in addition to the demand fee on such delinquent taxpayer, the said fee to be made a part of the judgment of sale and collected with the taxes due on the land sold or levied on for sale.”

“§40-5-14.

“After January 1 of each year, the tax collector must proceed, without delay, to levy upon the personal property of delinquent taxpayers for the payment of their taxes and, after having first given 10 days’ notice of the time and place of sale, with a description of the property to be sold, by posting the same at three or more public places in the precinct of the residence of such delinquent, either at the time of assessment or of the levy, or, if he is a nonresident of

the county, in the precinct in which the levy is made he must sell the same, or so much thereof as may be necessary to satisfy the taxes, fees and expenses of sale, including the expenses of keeping the property and moving the same to the place of sale in front of the courthouse of the county, or at the voting place, or at the residence of such delinquent, or at any other place in the precinct in which such notice was posted, at public outcry to the highest bidder for cash, and the property so sold shall not be subject to redemption. For making such sale, the collector shall be allowed a fee of \$5.00, to be collected out of the property. Such taxpayer may, at any time before the sale, pay the taxes, interest, fees and expenses, including the collector's fees for the sale, the same as if it had been made, and thereby discharge the levy."

"§40-5-17.

"When the collector has information that any person owing taxes in his county, whether due or not, has left the county, he shall make out and certify to the judge of probate a bill against such person and procure the approval thereof by the judge of probate in all respects as provided in section 40-5-31, and such bill shall operate as a writ of fieri facias, and the same may be executed by the collector if the personal property of the taxpayer is found in his county or may be by such collector forwarded to the collector of any county in which the taxpayer has any property, and the collector of such other county, on the receipt of such writ, shall file the same for record in the probate office in his county and, without delay shall give notice to the delinquent taxpayer in person or by certified or registered mail, return receipt demanded. On failure of said delinquent taxpayer to satisfy after 30 days from date of such notice the taxes, fees and costs due under the writ, in addition to the recording fee and a fee of \$5.00 for executing such writ, he shall proceed to execute the same as if issued in his county. He shall remit collections thereon to the collector sending him the writ and is liable under his bond for any neglect of duty under this section."

"§40-7-19.

"After December 31 in each year, the assessor shall in person or by deputy make a demand upon all taxpayers who have failed to make return to him for a list of their taxable property, and such demand may be made by written notice left with the taxpayer at his residence or place of business, or sent postpaid by certified or registered mail, with return receipt demanded, to the taxpayer's last known place of residence, and it shall be the duty of such taxpayer to return such list to the assessor on or before the third Monday in January following. For making this demand the tax assessor shall be entitled to a fee of \$5.00 to be paid by the taxpayer, which shall be added to the tax receipt and collected with the tax."

“§40-7-32.

“The assessor shall be entitled to a fee for making returns of property which has escaped taxation of \$5.00 for each assessment provided if the escape is for more than one year, all back years shall be made on one assessment blank, and the current year’s escape on a separate assessment for which he shall be entitled to an additional fee of \$5.00, such fee to be added to and collected with taxes due. In case of lands lying in one body, other than lands platted and subdivided into lots, the return shall be made on said lands as a whole, unless the assessor has reason to believe that they belong to different owners, in which case when lands lying in one body and supposed to belong to the same owner, must be included in one return, and no fee shall be allowed the assessor for any return made in disregard of this provision, but the assessment of any such property thereafter made shall not for that reason be invalid.”

“§40-10-27.

“For each notice to a delinquent property owner to show cause why a decree of sale should not be rendered, the judge of probate is entitled to a fee of \$5.00 and for each decree of sale, \$5.00; the tax collector shall have \$5.00 for serving each notice which may be given by certified or registered mail with return receipt demanded, but for his attendance at court, he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for services in like cases.”

“§40-10-29.

“After the expiration of three years from the date of the sale of any real estate for taxes, the judge of probate then in office must execute and deliver to the purchaser, other than the state, or person to whom the certificate of purchase has been assigned, upon the return of the certificate and payment of a fee of \$5.00 to the judge of probate, a deed to each lot or parcel of real estate sold to the purchaser and remaining unredeemed, including therein, if desired by the purchaser, any number of parcels, or lots purchased by him at such sale; and such deed shall convey to and vest in the grantee all the right, title, interest and estate of the person whose duty it was to pay the taxes on such real estate and the lien and claim of the state and county thereto, but it shall not convey the right, title or interest of any reversioner or remainderman therein.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:21 P.M.

Act No. 90-536

S. 218—Senator Windom

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AN ACT

Relating to Mobile County; to specifically repeal Act No. 80-342, H. 917, Regular Session 1980 (1980 Acts, p. 464) and Act No. 82-314, H. 778, Regular Session 1982 (1982 Acts, p. 427) which acts provide for the establishment of an idle speed zone for boats traveling on parts of Halls Mill Creek in Mobile County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 80-342, H. 917, Regular Session 1980 (1980 Acts, p. 464) and Act No. 82-314, H. 778, Regular Session 1982 (1982 Acts, p. 427) are hereby specifically repealed.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:22 P.M.

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Act No. 90-537

S. 592—Senator Ellis

## AN ACT

Relating to Shelby County; to amend Act No. 89-514, H. 1012, 1989 Regular Session, which relates to the authorization of county salary supplements for each circuit judge and district attorney in the eighteenth judicial circuit and each district judge of Shelby County; so as to require the payment of such county salary supplement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title and section 1 of Act No. 89-514, H. 1012, 1989 Regular Session are hereby amended to read as follows:

“Relating to Shelby County; requiring the county commission to provide an increase in county salary supplement for each circuit judge and district attorney within the eighteenth judicial circuit and each Shelby County district judge.”

“The Shelby County Commission is hereby required to provide, in addition to any present county salary supplement or expense allowance hereto provided by law, a county salary supplement of \$10,000.00 per annum for each circuit judge and each district attorney within the eighteenth judicial circuit and each Shelby County district judge. Such supplements shall be paid in equal monthly installments

from the county general fund. This provision shall not create any additional supplement to that authorized in the above act and shall simply mandate the payment of the salary supplements or expense allowances as the same is currently being paid."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:24 P.M.

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Act No. 90-538

S. 510—Senator Ellis

### AN ACT

Relating to Shelby County, providing further for the duties of the judge of probate.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judge of probate of Shelby County is hereby authorized and empowered to delegate and assign to the chief clerk and other clerks and personnel in the probate office such duties and authority of supervision and ministerial functions, with which he is now authorized and charged by law, as in his discretion may be necessary or convenient for the efficient operation of the office of the probate court of the county, and to designate as clerk of the probate court the chief clerk.

**Section 2.** The chief clerk of the probate court shall have the authority of clerk and register of such probate court, and, in addition to the powers and authority now prescribed by law, shall have the powers and authority to sign certificates of copies of all decrees, orders and papers, issued by the probate court, to grant decrees pro confesso for the want of answers, where required, and to supervise and perform such other duties not required to be performed personally by the judge, subject at all times to the control, direction and supervision of the judge of probate. Deputy Clerks-Registers shall be appointed from the clerks in the probate office.

**Section 3.** Any appointment or designation pursuant to this act shall be subject to the provisions of any civil service or merit system law applicable to the county.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:25 P.M.

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Act No. 90-539

S. 357—Senator Bailey

### AN ACT

To create a new circuit judgeship in the twentieth judicial circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created an additional circuit judgeship for the twentieth judicial circuit, which shall be designated Circuit Judgeship Number 4. The judgeship shall first be filled at the general election held in 1992; and each six years thereafter, a judge shall be elected to fill such judgeship at the same time as the election for other circuit judges of the twentieth judicial circuit.

**Section 2.** The judge elected as provided in Section 1 of this act shall have and exercise all the jurisdiction, power, rights and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of such office as the other circuit judges.

**Section 3.** The compensation of such judge shall be the same as that of the other circuit judges of the twentieth judicial circuit, including the payment of any county supplement or expense allowance.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:23 P.M.

Act No. 90-540

S. 603—Senator Rice

## AN ACT

Relating to Lee County; providing for a certain additional monthly expense allowance which shall terminate on December 31, 1990; providing for a certain monthly salary for such coroner and for a salary for a chief deputy coroner to be effective at the beginning of the next term of office with such salary to be in lieu of all salaries and expense allowances heretofore provided by law for such coroner; authorizing said coroner to appoint a chief deputy coroner and deputy coroners to serve in his absence; providing for payment of office expenses as approved by the county commission and specifically repealing certain conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** On the first day of the first month after the beginning of the next fiscal year following the effective date of this act, the coroner of Lee County shall be entitled to receive an additional monthly expense allowance of \$600.00 to be paid from the county general fund. Provided, however, that such additional allowance shall continue in effect only until December 31, 1990, at which time it shall terminate. Beginning with the next term of office and thereafter, such coroner shall be allowed to receive a monthly salary up to \$1,000.00 and the chief deputy coroner shall be allowed to receive a monthly salary up to \$500.00, as set by the county commission, to be paid from the county general fund, such salaries being paid in lieu of any salary and expense allowances heretofore provided by law for such coroner and chief deputy coroner.

**Section 2.** Such coroner shall be authorized to appoint a chief deputy coroner to serve in his absence. Such coroner shall be further authorized to appoint additional deputy coroners to serve in his absence and shall make provisions for compensating such deputy coroners for their services.

**Section 3.** The Lee County commission shall hereafter pay all necessary expenses as approved by said commission for the operation of the county coroner's office from the county general fund. Such coroner shall furnish to the county commission a proposed budget for operating expenses for each fiscal year at a time to be determined by the county commission.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws in conflict with this act are hereby repealed and those laws or provisions of laws which provide for any salaries or expense allowances for the coroner of Lee County



which would be in conflict with the intent of this act are hereby specifically repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:26 P.M.

Act No. 90-541

S. 650—Senator Mitchem

### AN ACT

Relating to Marshall County; providing for the county governing body to reimburse the offices of the tax collector and the probate judge for any monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, not to exceed a certain maximum per annum; and providing that such funds shall be payable from the general fund of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Marshall County governing body shall reimburse the offices of the tax collector and the probate judge from the general fund of the county the amount of any monetary loss, not to exceed a total for each office of twenty-five hundred dollars (\$2,500.00) per annum, arising or caused by error, if the mistake or omission was caused without personal knowledge, including loss arising from acceptance of worthless or forged checks, drafts, money orders or other written orders for money or its equivalent.

**Section 2.** It shall be the duty of the tax collector and the probate judge to insure that their employees exercise due care in performing their duties and to make a diligent effort to correct the error, mistake or omission and collect the amount subject to potential loss immediately upon becoming aware of the potential loss. This act shall not apply to any deliberate misuse or misappropriation of funds by said officials or any clerk or employee of said offices.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:27 P.M.

Act No. 90-542

S. 637—Senator Hilliard

### AN ACT

Relating to the Tenth Judicial Circuit in Jefferson County, amending Act No. 523, H. 121, 1975 Regular Session, so as to increase the number of Deputy District Attorneys in said circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In the Tenth Judicial Circuit in Jefferson County, Sections 1, 2, 4, 9 and 10 of Act No. 523, H. 121, 1975 Regular Session, are hereby amended to read as follows:

“Section 1. In the Tenth Judicial Circuit of Alabama, Birmingham Division, the District Attorney of said circuit shall be authorized to appoint twenty-four (24) Deputy District Attorneys. Such Deputy District Attorneys appointed pursuant to this act shall be qualified to practice law in the courts of this State, and shall serve at the pleasure of the appointing District Attorney. Such Deputy District Attorneys shall be state officers and shall perform such duties in the circuit as the District Attorney may require.

“Section 2. The District Attorney shall be authorized to designate one (1) Deputy District Attorney to serve as Chief Deputy District Attorney, five (5) Deputy District Attorneys to serve as Level #1 Deputy District Attorneys, six (6) Deputy District Attorneys to serve as Level #2 Deputy District Attorneys, and six (6) Deputy District Attorneys to serve as Level #3 Deputy District Attorneys.

“Section 4. The annual compensation to be paid the Chief Deputy District Attorney, each of the five (5) Deputy District Attorneys designated as Level #1 Deputy District Attorneys, each of the six (6) Deputy District Attorneys designated as Level #2 Deputy District Attorneys, and each of the six (6) Deputy District Attorneys designated as Level #3 Deputy District Attorneys shall be as provided in the schedule of salaries hereinbelow set out. Of the total annual compensation to be paid each of the aforementioned eighteen (18) Deputy District Attorneys, each shall be paid an annual salary by the State of Alabama of \$15,000.00, payable from the general funds

of the state in equal installments as the salaries of other state officers are paid. The remainder of the annual compensation as provided in the schedule of salaries hereinbelow set out, of each of the aforementioned eighteen (18) Deputy District Attorneys, shall be paid by the county within said Tenth Circuit which sum shall be paid from the general funds of said county, in equal semimonthly installments as the salaries of other county officers are paid.

“Section 9. The District Attorney of said circuit shall be authorized to designate three (3) Deputy District Attorneys to serve in any Juvenile Court or Family Court of said circuit. One (1) Deputy District Attorney shall serve as a Level #1 Deputy District Attorney, one (1) Deputy District Attorney shall serve as a Level #2 Deputy District Attorney and one (1) Deputy District Attorney shall serve as a Level #3 Deputy District Attorney.

“Section 10. The annual compensation to be paid the three (3) Deputy District Attorneys designated to serve in any Juvenile Court or Family Court of said circuit shall be as provided in the schedule of salaries hereinabove mentioned and as set out in Section 6 above. The total annual compensation for each of the said (3) Deputy District Attorneys shall be paid by the county within said Tenth Circuit which compensation shall be paid from the general funds of said county in equal semimonthly installments as the salaries of other county officers are paid.”

**Section 2.** This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:28 P.M.

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Act No. 90-543

S. 602—Senator Bennett

### AN ACT

Relating to Franklin County to amend Act No. 514, S. 728, p. 568, of the 1978 Session, to provide for the fee for the issuance of pistol permits by the sheriff and for the disposition of such fee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 514, S. 728, 1978 Regular Session, is hereby amended to read as follows:

“Section 1. In Franklin County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person

as provided in Section 13-6-155 of the Code of Alabama 1975, shall be \$12.50, which shall be collected by the sheriff of such county and deposited in the county treasury. The county shall retain five dollars (\$5.00) for the county general fund and seven dollars and fifty cents (\$7.50) shall be retained for the operation of the sheriff's department to be expended as the sheriff may see fit."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:29 P.M.

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Act No. 90-544

S. 203—Senator Bailey

### AN ACT

To establish the "Community Schools Act" to provide for the establishment by local boards of education of community schools advisory committees in furtherance of the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known and may be cited as the "Community Schools Act."

**Section 2.** The purpose of this act is to encourage greater community involvement in the public schools and greater community use of public school facilities. To this end it is declared to be the policy of this state:

(1) To provide for increased involvement by citizens in their local schools through community schools advisory committees.

(2) To assure maximum use of public school facilities by the citizens of each community in this state.

(3) To provide for increased involvement by business and industry in every school system through business/industry partnerships - Adopt-A-School Programs.

**Section 3.** As used in this act, the following words shall have the meanings respectively ascribed to them unless the context clearly indicates otherwise:

A. The term "community schools advisory committee" means a committee of citizens organized to advise community school coordinators, administrators, and local boards of education in the involvement of citizens in the educational process and in the use of public school facilities.

B. The term “community schools coordinator” means an employee of a local board of education whose responsibility it is to promote and direct maximum use of the public schools and public school facilities as centers for community education.

C. The term “public school facility” means any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school, or high school.

D. The term “business/industry partnerships” means a closely knit partnership consisting of a business and a selected Alabama public school. It is sharing of time, talent, expertise, and resources.

**Section 4.** Every local board of education which elects to apply for funding pursuant to this act shall:

A. Develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education.

B. Develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education.

C. Establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

Programs and plans developed by a local board of education shall provide for the establishment of one or more community schools advisory committees for the public schools under the board's jurisdiction and for the employment of one or more community schools coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education which elects to apply for funding pursuant to this act shall have the authority to enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of funds allocated by the State Board of Education. Local funds from each local board of education applying for funds for the community schools program must equal at least one-fourth of the total budget for the community schools program of said local board of education.

**Section 5.** Every participating local board of education shall establish one or more community schools advisory committees which may become involved in matters affecting the educational process in accordance with rules established by the local board of education

and approved by the State Board of Education and further shall consider ways of increasing community involvement in the public schools and utilization of public school facilities. Community schools advisory committees may assist local boards of education in the development and preparation of the plans and programs to achieve such goals, may assist in the implementation of such plans and programs and may provide such other assistance as may be requested by the local boards of education.

Community schools advisory committees shall work with local school officials and personnel, parent-teacher organizations, and community groups and agencies in providing maximum opportunities for public schools to serve the communities, and shall encourage the maximum use of volunteers in the public schools.

Wherever possible, the local board of education is encouraged to include at least one high school student. The size of the councils and the terms of membership on the councils shall be determined by the local board of education in accordance with the state guidelines.

The role, scope and responsibility of the Advisory Committees shall be limited to community school matters.

**Section 6.** Every participating local board of education shall employ one or more community schools coordinators and shall establish the terms and conditions of their employment. Community schools coordinators shall be responsible for:

A. Providing support to the community schools advisory committees and public school officials.

B. Fostering cooperation between the local board of education and appropriate community agencies.

C. Encouraging maximum use of community volunteers in the public schools.

D. Performing such other duties as may be assigned by the local superintendents and the local board of education, consistent with the purposes of this act.

**Section 7.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:30 P.M.

Act No. 90-545

S. 653—Senator Mitchem

## AN ACT

Relating to Marshall County; levying a certain tax on the retail and wholesale price of all spirituous or vinous liquors sold in the county in lieu of the tax now levied on such liquors by Act No. 89-797, H. 984 of the 1989 Regular Session (Acts 1989, p. 1596), and providing for disposition of the proceeds from such taxes, and to specifically repeal Act No. 89-797 of the 1989 Regular Session (Acts 1989, p. 1596).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Pursuant to the authority granted in Section 104 of the Constitution of Alabama of 1901, in Marshall County, in lieu of the tax levied by Act No. 89-797, H. 984 of the 1989 Regular Session (Acts 1989, p. 1596), there is hereby levied and shall be collected a sales tax at the rate of five percent (5%) upon the wholesale and retail price, excluding taxes, of spirituous or vinous liquors sold at retail or wholesale in the county by the Alcoholic Beverage Control Board, its stores, or its successors or assigns. The county tax herein levied shall be collected by said board, its successors or assigns, from the wholesale and retail purchaser at the time the wholesale or retail price is paid. Said tax shall be collected as are other taxes on alcoholic beverages and deposited into the county general fund to be distributed to the Marshall County district attorney's office, district attorney fund, for administration of said office. The Alcoholic Beverage Control Board is authorized to withhold five percent (5%) of the tax collected under this act for costs for administration and collection, said sum, however, not to exceed \$2,000.00 per year.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed and the provisions of Act No. 89-797, H. 984 of the 1989 Regular Session are hereby specifically repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:31 P.M.

Act No. 90-546

S. 214—Senator Smith (J)

## AN ACT

Relating to the incorporation of railroad authorities as public corporations; amending Sections 37-13-16 and 37-13-21, Code of Alabama 1975, so as to provide further for the exemption of such authorities from certain taxation and providing further for the dissolution of such authorities.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-13-16, Code of Alabama 1975, is hereby amended to read as follows:

“§37-13-16.

“The bonds issued by an authority and the income therefrom shall be exempt from all taxation in the state. All property and income of an authority shall be exempt from all state, county, municipal and other local taxation; provided, however, that this exemption shall not be construed to exempt concessionaires, licensees, tenants, operators or lessees of the authority from the payment of any taxes, including licenses or privilege taxes levied by the state, any county or any municipality in the state.”

**Section 2.** Section 37-13-21, Code of Alabama 1975, is hereby amended to read as follows:

“§37-13-21.

“At any time when no bonds of an authority are outstanding, such authority may be dissolved upon the filing, with the judge of probate of the county in which is filed the certificate of incorporation, of an application for dissolution, which shall be subscribed by each director and sworn to by each director before an officer authorized to take acknowledgments to deeds. Upon the filing of such application for dissolution, the authority shall cease to exist. Said probate judge shall receive and record the application for dissolution in an appropriate book of record in his office. Upon dissolution, all rights, title and interests of the authority in property shall be vested in the authorizing subdivisions pursuant to the provisions of the certificate of incorporation, or, in the absence of such provisions, shall be vested in the authorizing subdivisions in the same proportion as their contributions to the authority over the life thereof.”

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.



**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:32 P.M.

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Act No. 90-547

S. 639—Senator Bedford

AN ACT

To amend Section 1 of Act No. 1185, H. 1361, approved September 13, 1969 (Acts 1969, p. 2213), which provided an expense allowance for the coroner of Franklin County so as to provide further for such expense allowance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 1185, H. 1361, approved September 13, 1969 (Acts 1969, p. 2213), is hereby amended to read as follows:

“Section 1. The coroner in Franklin County shall be entitled to an expense allowance of \$175.00 per month which shall be payable from the county general fund in equal monthly installments at the end of each month. The expense allowance provided herein shall be in addition to any and all other allowances or compensation provided by law for such coroner.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:33 P.M.

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Act No. 90-548

H. 8—Rep. Richardson

AN ACT

To provide for the reopening of the Employees' Retirement System of Alabama to those members who prior to the effective date of this act have previous employment with a city, county, or a political subdivision thereof of the State of Alabama for which they are ineligible to gain service credit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any active and contributing member of the Employees' Retirement System who prior to the effective date of this

act was a regular employee of a city, county, or a political subdivision thereof of the State of Alabama and is now covered by the Employees' Retirement System shall be eligible to receive up to eight (8) years of creditable service for such employment, provided that the member of the Employees' Retirement System claiming such credit shall have attained not less than ten (10) years of contributing membership service credit exclusive of military service credit under the Employees' Retirement System, and provided further, that such member performs and complies with the conditions prescribed in Section 2 of this act.

**Section 2.** A member of the Employees' Retirement System of Alabama eligible under Section 1 of this act may receive credit for employment rendered to a city, county, or a political subdivision thereof of the State of Alabama as provided in Section 1 of this act provided that as conditions precedent to the receipt of such credit:

A. Such member shall contribute, prior to the date of his retirement to the Employees' Retirement System for each year of employment with a city, county, or a political subdivision thereof of the State of Alabama, a percentage of his current annual compensation or average final compensation, whichever is greater; the applicable percentage of said annual compensation or average final compensation, whichever is greater shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation.

B. The city, county, or the political subdivision thereof of the State of Alabama for which such member was employed shall certify in writing to the Employees' Retirement System the dates of the member's employment together with a statement certifying that such member was a regular employee of the city, county, or political subdivision thereof in the State of Alabama during such period of claimed credit.

C. The member shall claim, purchase and receive credit for eligible service in increments of not less than one year unless such member's total or balance of such service is less than one year in which event he shall claim and purchase credit for the entire period.

**Section 3.** Anything in this section to the contrary notwithstanding, a member of the Employees' Retirement System shall not receive credit for such service where at the time of retirement he has credit or is entitled to any benefits whatsoever for the same service under any other retirement or pension plan which is wholly or partly funded from public funds; provided that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of such service credit, contributions made under this section by the member shall be refunded to him.

**Section 4.** The Employees' Retirement System may deduct in twelve (12) equal installments from the retirement allowance payable to a retired member any additional contributions necessary to pay the administrative costs incurred in granting the credit hereunder in the event its board of control and consulting actuaries thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay such administrative costs.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:34 P.M.

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Act No. 90-549

H. 411—Rep. Willis

### AN ACT

To provide for a reopening for certain support personnel covered under the Teachers' Retirement System of Alabama and to further provide the conditions under which such person may purchase creditable service and to provide a method of calculation for the purchase of such service.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any active and contributing member of the Teachers' Retirement System of Alabama shall be eligible to receive up to five years of creditable service for employment in a support personnel position in the State of Alabama, provided that the member of the Retirement System claiming such credit shall have attained not less than ten years of contributing membership service exclusive of military service credit under the Teachers' Retirement System, and provided further that such member performs and complies with the conditions prescribed in Section 2 of this act.

**Section 2.** A member of the Teachers' Retirement System of Alabama eligible under Section 1 of this act may receive credit as provided in Section 1 provided as a condition precedent to the receipt of such credit: (a) such member shall contribute within one year of October 1, 1990, to the Teachers' Retirement System for each year of claimed service credit a percentage of his annual earnable compensation or his average final salary whichever is higher; the applicable percentage of said annual compensation or average final salary, whichever is higher, shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation. (b) The member shall claim purchase and

receive credit for support personnel service in increments of not less than one year unless such member's total or balance of claimed service is less than one year in which event he shall claim and purchase credit for the entire period.

**Section 3.** Anything in this section to the contrary notwithstanding, a member shall not be eligible to purchase credit under this section for service for which he already has credit under the Teachers' Retirement System or any other retirement or pension plan which is wholly or partly funded from public funds or other monies of public institutions of this or any other state, provided that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of service purchased under the provisions of this act, contributions made on account of such disqualified service shall be refunded to the member.

**Section 4.** This act shall become effective October 1, 1990, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:35 P.M.

Act No. 90-550

H. 453—Reps. Beasley, Buskey (JL),  
Johnson (RG), White (L),  
Mikell and Butler

### AN ACT

To amend Section 34-23-33, Code of Alabama 1975, relating to the practice of pharmacy, so as to add as a ground for disciplinary action the violation of a rule or regulation of the State Board of Pharmacy.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-23-33, Code of Alabama 1975, is hereby amended to read as follows:

“§34-23-33.

“The board shall have the power and duty to revoke, suspend, place on probation, or require remediation for any licensed pharmacist for a specified time to be determined at the discretion of the board and to take the same or similar action against the permit to operate any pharmacy in this state, whenever the board shall find by a

preponderance of the evidence, or pursuant to a consent decree that the pharmacist has been guilty of any of the following acts or offenses:

“(1) Obtaining the license to practice pharmacy or permit to operate a pharmacy by fraudulent means;

“(2) Violation of the laws regulating the sale or dispensing of narcotics, exempt narcotics or drugs bearing the label “caution, federal law prohibits dispensing without prescription” or similar wording which causes such drugs to be classified as prescription legend drugs;

“(3) Conviction of a felony; (a copy of the record of conviction, certified to by the clerk of the court entering the conviction shall be conclusive evidence);

“(4) Conviction of any crime or offense that reflects the inability of the practitioner to practice pharmacy with due regard for the health and safety of the patients;

“(5) Inability to practice pharmacy with reasonable skill and safety to patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance or as a result of any mental or physical condition.

“When the issue is whether or not a pharmacist is physically or mentally capable of practicing pharmacy with reasonable skill and safety to patients, then, upon a showing of probable cause to the board that the pharmacist is not capable of practicing pharmacy with reasonable skill and safety to patients, the board may require the pharmacist in question to submit to a psychological examination by a psychologist to determine psychological status and/or a physical examination by a physician to determine physical condition. Such psychologist and/or physician is to be designated by the board. The expense of such examination shall be borne by the board. Where the pharmacist raises the issue of mental or physical competence or appeals a decision regarding his or her mental or physical competence, the pharmacist shall be permitted to obtain his or her own evaluation at the pharmacist's expense. If the objectivity or adequacy of the examination is suspect, the board may complete the examination by the designated practitioners at its own expense. When mental or physical capacity to practice is at issue, every pharmacist licensed to practice pharmacy in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of such examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

“(6) Gross malpractice or repeated malpractice or gross negligence in the practice of pharmacy;

“(7) Violation of any provisions contained in Title 34, Chapter 23;

“(8) Employing, assisting or enabling in any manner any unlicensed person to practice pharmacy;

“(9) The suspension or revocation by another state of a license to practice pharmacy (a certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof);

“(10) Refusal to appear before the board after having been ordered to so do in writing by the executive officer or chair of the board;

“(11) Making any fraudulent or untrue statement to the board;

“(12) Violation of any rule or regulation of the board; or

“(13) Violation of the Code of Professional Conduct adopted by the board in the rules and regulations of the board.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:36 P.M.

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Act No. 90-551

H. 157—Rep. Campbell

## AN ACT

To provide further for the creation, alteration and termination of condominiums; the management of condominiums; protection of condominium purchasers and general provisions. To be known as the Alabama Uniform Condominium Act and to apply to all condominiums created in Alabama after January 1, 1991.

*Be It Enacted by the Legislature of Alabama:*

### ARTICLE 1

#### GENERAL PROVISIONS

§1-101. Short Title.

This Act shall be known and may be cited as the Alabama Uniform Condominium Act of 1991.

§1-102. Applicability.

(a) This Act applies to all condominiums created within this State after the effective date of this Act. Sections 1-105 (Separate

Titles and Taxation), 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 1-107 (Eminent Domain), 2-103 (Construction and Validity of Declaration and Bylaws), 2-104 (Description of Units), 3-102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners' Association), 3-111 (Tort and Contract Liability), 3-116 (Lien for Assessments), 3-118 (Association Records), 4-109 (Resales of Units), and 4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and Section 1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State before the effective date of this Act; but those sections apply only with respect to events and circumstances occurring after the effective date of this Act and do not invalidate existing provisions of the declaration, bylaws, plats or plans of those condominiums.

(b) The provisions of §§ 35-8-1 through 22 do not apply to condominiums created after the effective date of this Act and do not invalidate any amendment to the declaration, bylaws, plats or plans of any condominium created before the effective date of this Act if the amendment would be permitted by this Act. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by §§ 35-8-1 thru 22. If the amendment grants to any person any rights, powers, or privileges permitted by this Act, all correlative obligations, liabilities, and restrictions in this Act also apply to that person.

(c) This Act does not apply to condominiums or units located outside this State, but the offering statement provisions (Sections 4-102 through 4-108) apply to all contracts for the disposition thereof signed in this State by any party unless exempt under Section 4-101(b).

(d) This act does not apply if a condominium contains no more than 4 units and is not subject to any development rights, unless the declaration provides that the entire Act is applicable.

#### § 1-103. Definitions.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Act:

(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than

20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the association.

(3) "Association" or of "unit owners' association" means the corporation organized under Section 3-101.

(4) "Common elements" means all portions of a condominium other than the units.

(5) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to Section 2-107.

(7) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(8) "Conversion building" means a building that at any time before creation of the condominium was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(9) "Declarant" means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of, or (ii) reserves or succeeds to any special declarant right.

(10) "Declaration" means any instruments, however denominated, that create a condominium, and any amendments to those instruments.

(11) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a condominium; (ii) to create units, common elements, or limited



common elements within a condominium; (iii) to subdivide units or convert units into common elements; or (iv) to withdraw real estate from a condominium.

(12) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(13) "Board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

(14) "Identifying number" means a symbol or address that identifies only one unit in a condominium.

(15) "Leasehold condominium" means a condominium in which all or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the condominium or reduce its size.

(16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of Section 2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.

(17) "Master association" means an organization described in Section 2-120, whether or not it is also an association described in Section 3-101.

(18) "Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located.

(19) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(20) "Purchaser" means any person, other than a declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

(21) "Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with

a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(22) "Residential purposes" means use for dwelling or recreational purposes, or both.

(23) "Security interest" means an interest in real estate or personal property created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, vendor's lien, deed of trust, contract for deed, land sales contract, lease intended as security, assignment of lease, rents intended as security, or any similar security device, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(24) "Special declarant rights" means rights reserved for the benefit of a declarant (i) to complete improvements indicated on plats and plans filed with the declaration (Section 2-109); (ii) to exercise any development right (Section 2-110); (iii) to maintain sales offices, management offices, signs advertising the condominium, and models (Section 2-115); (iv) to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium (Section 2-116); (v) to make the condominium subject to a master association (Section 2-120); (vi) or to appoint or remove any officer of the association or any master association or any board member during any period of declarant control (Section 3-103(d)).

(25) "Time share" means a right to occupy a unit or any of several units during five (5) or more separated time periods over a period of at least five (5) years, including renewal options, whether or not coupled with an estate or interest in a condominium or a specified portion thereof.

(26) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 2-105(a)(5).

(27) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium, the declarant is the initial owner of any unit created by the condominium.

#### § 1-104. Variation by Agreement.

Except as expressly provided in this Act, provisions of this Act may not be varied by agreement, and rights conferred by this Act

may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this Act or the declaration.

§ 1-105. Separate Titles and Taxation.

(a) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.

(b) In a condominium where there is any unit owner other than a declarant:

(1) Each unit that has been created together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate; and

(2) Each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.

(c) Any portion of the common elements for which the declarant has reserved any development right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(d) If there is no unit owner other than a declarant, the real estate comprising the condominium may be taxed and assessed in any manner provided by law.

(e) All laws authorizing exemptions or deductions from taxation shall be applicable to each individual unit to the same extent they are applicable to other property.

§ 1-106. Applicability of Local Ordinances, Regulations, and Building Codes.

(a) A building code may not impose any requirements upon any structure in a condominium which it would not impose upon a physically identical development under a different form of ownership.

(b) No zoning, subdivision, or other real estate use law, ordinance, or regulation may prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership.

(c) Except as provided in subsections (a) and (b), the provisions of this Act do not invalidate or modify any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, rule or regulation governing the use of real estate.

§ 1-107. Eminent Domain.

(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award must compensate the unit owner for the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (i) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and (ii) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

(d) The court decree shall be recorded in every county in which any portion of the condominium is located.

§ 1-108. Supplemental General Principles of Law Applicable.

The principles of law and equity, including the law of corporations, the law of real property and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this Act, except to the extent inconsistent with this Act.

§ 1-109. Construction Against Implicit Repeal.

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

§ 1-110. Uniformity of Application and Construction.

This Act shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

§ 1-111. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

§ 1-112. Chapter To Be Liberally Construed; Remedies Liberally Administered.

(a) Notwithstanding a finding that this chapter is in derogation of the common law, it should be liberally construed to effectuate its purpose of encouraging development and construction of condominium property under the provisions of this chapter. The remedies provided by this Act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.

(b) Any right or obligation declared by this Act is enforceable by judicial proceeding.

§ 1-113. Effective Date.

This Act shall take effect on January 1, 1991.

## ARTICLE 2

### CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

§ 2-101. Creation of Condominium.

(a) A condominium may be created pursuant to this Act only by filing a declaration executed in the same manner as a deed with the Judge of Probate in every county in which any portion of the condominium is located. A duplicate of the declaration may be presented to the filing officer simultaneously for proper validation as to the date filed. Said duplicate shall be returned to the person who presented it.

(b) The Judge of Probate shall index the declaration of condominium in the Grantee's index in the name of the condominium and in the Grantor's index in the name of each person executing the declaration. A well-bound book of suitable size for each condominium to be known as "Condominium Book No." shall be maintained by the Judge of Probate. Such book shall contain a copy of the declaration of condominium, all drawings, amendments, certificate of completion, certificate of termination or other like instruments.

(c) A declaration or an amendment to a declaration adding units to a condominium, may not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an independent registered engineer or registered architect.

#### § 2-102. Unit Boundaries.

Except as provided by the declaration:

(1) If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

#### § 2-103. Construction and Validity of Declaration and By-Laws.

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, by laws, rules, or regulations adopted pursuant to Section 3-102(a)(1).

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this Act.

(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this Act. The determination of whether a substantial failure impairs marketability is not governed by this Act.

#### § 2-104. Description of Units.

A description of a unit which sets forth the name of the condominium, the recording data for the declaration, the county in which the condominium is located, and the identifying number of the unit, is a sufficient legal description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.

#### § 2-105. Contents of Declaration.

(a) The declaration for a condominium must contain:

(1) the name of the condominium, which must include the word "condominium" or be followed by the words "a condominium", and the name of the association;

(2) the name of every county in which any part of the condominium is situated;

(3) a legally sufficient description of the real estate included in the condominium;

(4) a statement of the maximum number of units which the declarant reserves the right to create;

(5) a description of the boundaries of each unit created by the declaration, including the unit's identifying number;

(6) a description of any limited common elements, other than those specified in Section 2-102(2) and (4), as provided in Section 2-109(b)(10);

(7) a description of any real estate (except real estate subject to development rights) which may be allocated subsequently as limited common elements, other than limited common elements specified in Section 2-102(2) and (4), together with a statement that they may be so allocated;

(8) a description of any development rights specified in Section 1-103(14) and other special declarant rights specified in Section 1-103(23) reserved by the declarant, together with a legally sufficient

description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised;

(9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right, or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;

(10) any other conditions or limitations under which the rights described in paragraph eight (8) may be exercised or will lapse;

(11) an allocation to each unit of the allocated interests in the manner described in Section 2-107;

(12) any restrictions on (i) use, occupancy, leasing or alienation of the units, provided that reasonable rules and regulations related to conduct by unit owners or esthetic considerations which are adopted by the association from time to time need not be included in the declaration, and (ii) the amount for which a unit may be sold or the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or to the condominium, or on the termination of the condominium;

(13) the recording data for recorded easements and licenses appurtenant to or included in the condominium or to which any portion of the condominium is or may become subject by virtue of a reservation in the declaration;

(14) a statement of the number and identity of units which the declarant reserves the right to dispose of in time shares; and

(15) all matters required by Sections 2-106, 2-107, 2-108, 2-109, 2-115, 2-116, and 3-103(d).

(b) The declaration may contain any other matters the declarant deems appropriate.

#### § 2-106. Leasehold Condominiums.

(a) Any lease the expiration or termination of which may terminate the condominium or reduce its size shall be recorded. Every lessor of those leases must sign the declaration, and the declaration must state:

(1) the recording data for the lease, the date of the lease and the date of its recordation;



(2) the date on which the lease is scheduled to expire;

(3) a legally sufficient description of the real estate subject to the lease;

(4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(5) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

(b) After the declaration for a leasehold condominium is recorded, neither the lessor nor his successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of his share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest in a condominium is not affected by failure of any other person to pay rent or fulfill any other covenant.

(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(d) If the expiration or termination of a lease decreases the number of units in a condominium, the allocated interests must be reallocated in accordance with Section 1-107(a) as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.

#### § 2-107. Allocation of Common Element Interests, Votes, and Common Expense Liabilities.

(a) The declaration must allocate to each unit in a condominium a fraction or percentage of undivided interests in the common elements and in the common expenses of the association specified in Section 3-115(a), and a portion of the votes in the association, to each unit and state the formulas used to establish allocations of interest. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(c) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this Act, nor may units constitute a class because they are owned by a declarant.

(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or 100 percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(e) In a condominium the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated, is void.

#### § 2-108. Limited Common Elements.

(a) Except for the limited common elements described in Section 2-102(2) and (4), the declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the unit owners whose units are affected.

(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide it to the association, which shall record it and the cost shall be borne by the persons executing the amendment. The amendment shall be recorded and indexed in the names of the parties and the condominium.

(c) A common element not previously allocated as a limited common element may not be so allocated except pursuant to provisions in the declaration made in accordance with Section 2-105(a)(7). The allocations must be made by amendments to the declaration.

#### § 2-109. Plats and Plans.

(a) Plats and plans are a part of the declaration. Separate plats and plans are not required by this Act if all the information required by this section is contained in either a plat or plan. Each plat and

plan must be clear and legible and contain a certification that the plat or plan contains all information required by this section.

(b) Each plat must show:

(1) the name and a survey or general schematic map of the entire condominium;

(2) the location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;

(3) a legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;

(4) the extent of any encroachments by or upon any portion of the condominium;

(5) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the condominium;

(6) the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number;

(7) the location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number;

(8) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(9) the distance between non-contiguous parcels of real estate comprising the condominium;

(10) the location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in Sections 2-102(2) and (4);

(11) in the case of real estate not subject to development rights, all other matters customarily shown on land surveys.

(12) a certification as to whether any portion of the property subject to the condominium is located within a flood zone as determined by the United States Department of Housing and Urban Development and, if so, the flood zone classification. When any portion of the condominium property is located within a flood zone, the flood zone boundary shall be shown on the plat, together with

the locations of all proposed structures to be located within the flood zone area.

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT".

(d) To the extent not shown or projected on the plats, plans of the units must show or project:

(1) the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(2) any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(3) any units in which the declarant has reserved the right to create additional units or common elements described in Section 2-110(c) identified appropriately.

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans.

(f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (d), or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.

(g) Any certification of a plat or plan required by this Section or Section 2-101(b) must be made by an independent registered engineer or registered architect.

#### § 2-110. Exercise of Development Rights.

(a) To exercise any development right reserved under Section 2-105(a)(8), the declarant shall prepare, execute, and record an amendment to the declaration as specified in Section 2-117 and comply with Section 2-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (b), reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by Section 2-108.

(b) Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate

includes all matters required by Section 2-105 or 2-106, as the case may be, and the plats and plans include all matters required by Section 2-109. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to Section 2-105(a)(8).

(c) Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both:

(1) If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain; and

(2) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

(d) If the declaration provides, pursuant to Section 2-105(a) (8), that all or a portion of the real estate is subject to the development right of withdrawal:

(1) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(2) If a portion or portions are subject to withdrawal, no portion may be withdrawn after a unit in that portion has been conveyed to a purchaser.

## § 2-111. Alterations of Units.

Subject to the provisions of the declaration and other provisions of law, a unit owner:

(1) may make any improvements or alterations to his unit that do not impair the structural integrity, or mechanical systems, or lessen the support of any portion of the condominium;

(2) may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without permission of the association;

(3) after acquiring an adjoining unit, or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the

condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

§ 2-112. Relocation of Boundaries Between Adjoining Units.

(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved, states the reallocations, is executed by those unit owners, contains words of conveyance between them, and upon recordation, is indexed in the name of the grantor, grantee, and shall be recorded as an amendment to the declaration.

(b) The association shall prepare and record plats or plans necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers.

(c) Any costs incurred utilizing the procedures described in subsections (a) and (b) above shall be borne by the requesting unit owners.

§ 2-113. Subdivision of Units.

(a) If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a unit owner to subdivide a unit, the association shall prepare, execute, and record an amendment to the declaration, including the plats and plans, subdividing that unit.

(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

(c) Any costs incurred utilizing the procedures described in subsections (a) and (b) above shall be borne by the requesting unit owners.

§ 2-114. Monuments as Boundaries.

The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the original plats and plans thereof become its boundaries rather than

the metes and bounds expressed in the deed or plat or plan, regardless of settling or lateral movement of the building, or minor variance between boundaries shown on the plats or plans or in the deed and those of the building. This section does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to the plats and plans.

#### § 2-115. Use for Sales Purposes.

A declarant may maintain sales offices, management offices, and models in units or on common elements in the condominium only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location, and relocation thereof. Any sales office, management office, or model not designated a unit by the declaration is a common element, and if a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the condominium. The provisions of this section are subject to the provisions of other state law, and to local ordinances.

#### § 2-116. Easement Rights.

Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this Act or reserved in the declaration.

#### § 2-117. Amendment of Declaration.

(a) Except in cases of amendments that may be executed by a declarant under Section 2-109(f) or 2-110; the association under Section 1-107, 2-106(d), 2-108(c), 2-112(a), or 2-113; or by certain unit owners under Section 2-108(b), 2-112(a), 2-113(b), or 2-118(b), and except as limited by subsection (d), the declaration, including the plats and plans, may be amended only by the affirmative vote or agreement of unit owners of units to which at least two-thirds of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to non-residential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration must be recorded in every county in which any portion of the condominium is located, and is effective only upon recordation. An amendment shall be indexed in the Grantee's index in the name of the condominium and the association and in the Grantor's index in the name of the parties executing the amendment.

(d) Except to the extent expressly permitted or required by other provisions of this Act, no amendment in the absence of unanimous consent of the unit owners may: create or increase special declarant rights, create or increase the number or identity of units that may be disposed of on a time share basis, increase the number of units; change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted.

(e) Amendments to the declaration required by this Act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

(f) Where a specific right is given a lender, pursuant to Section 2-119 no amendment affecting those rights may be made without the consent of the lender or specified number or percentage thereof as required by the declaration. 2-118. Termination of Condominium.

(a) Except in the case of a taking of all the units by eminent domain specified in Section 1-107, a condominium may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to non-residential uses.

(b) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) In the case of a condominium containing only units having horizontal boundaries described in the declaration, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.



(d) In the case of a condominium containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale.

(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate in the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in accordance with subsections (i), (j) and (k). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all assessments and other obligations imposed on unit owners by this Act or the declaration.

(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries described in the declaration, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.

(g) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear.

(h) Following termination, creditors of the association holding liens on the units which were recorded before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(i) The respective interests of unit owners referred to in subsections (e), (f), (g), and (h) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit and common element interest by the total fair market values of all the units and common elements.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.

(j) Except as provided in subsection (k), foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the condominium.

(k) If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium.

## § 2-119. Rights of Secured Lenders.

The declaration may require that all or a specified number or percentage of the mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to (i) deny or delegate control over the general administrative affairs of the association by the unit owners or the board, or (ii) prevent the association or the

board from commencing, intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds except pursuant to Section 3-113.

§ 2-120. Master Associations.

(a) If the declaration for a condominium provides that any of the powers described in Section 3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of this Act applicable to unit owners associations apply to any such corporation except as modified by this section.

(b) Unless it is acting in the capacity of an association described in Section 3-101, a master association may exercise the powers set forth in Section 3-102(a)(2) only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from those condominiums to the master association.

(c) If the declaration of any condominium provides that the board may delegate certain powers to a master association, the members of the board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in Sections 3-103, 3-108, 3-109, 3-110, and 3-112 apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this Act.

(e) Even if a master association is also an association described in Section 3-101, the certificate of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums subject to the master association may elect all members of that executive board.

(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board.

(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board.

(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.

§ 2-121. Merger or Consolidation of Condominiums.

(a) Any 2 or more condominiums, by agreement of the unit owners as provided in subsection (b), may be merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium is, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association that holds all powers, rights, obligations, assets, and liabilities of all preexisting associations.

(b) An agreement of two or more condominiums to merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the pre-existing condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. The agreement must be recorded in every county in which a portion of the condominium is located and is not effective until recorded.

(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated interests of the new condominium which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the portion of the percentages allocated to each unit formerly comprising a part of the preexisting condominium must be equal to the percentages of allocated interests allocated to that unit by the declaration of the preexisting condominium.

### ARTICLE 3

#### MANAGEMENT OF CONDOMINIUM

§ 3-101. Organization of Unit Owners' Association.

A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under Section 2-118, or their heirs, successors, or assigns. The association must be organized as a profit or nonprofit corporation.

§ 3-102. Powers of Unit Owners' Association.

(a) Except as provided in subsection (b), and subject to the provisions of the declaration, the association, may:

- (1) adopt and amend bylaws and rules and regulations;
- (2) adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners;
- (3) hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;
- (5) make contracts and incur liabilities;
- (6) regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) cause additional improvements to be made as a part of the common elements;
- (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to Section 3-112;
- (9) grant easements, encroachments, leases, licenses, and concessions through or over the common elements;
- (10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in Sections 2-102(2) and (4), and for services provided to unit owners;
- (11) impose against owners of units charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;
- (12) impose reasonable charges for the preparation and recording of amendments to the declaration, resale certificates required by Section 4-109, or statements of unpaid assessments;
- (13) provide for the indemnification of its officers and board and maintain directors' and officers' liability insurance;
- (14) assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

(15) exercise any other powers conferred by the declaration or bylaws;

(16) exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and

(17) exercise any other powers necessary and proper for the governance and operation of the association.

(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

### § 3-103. Board Members and Officers.

(a) Except as provided in the declaration, the bylaws, the articles of incorporation in subsection (b), or other provisions of this Act, the board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board are required to exercise (i) if appointed by the declarant, the care required of fiduciaries of the unit owners other than the declarant and (ii) if elected by the unit owners other than declarant, ordinary and reasonable care.

(b) The board may not act on behalf of the association to amend the declaration specified in Section 2-117, to terminate the condominium described Section 2-118, or to elect members of the board or to determine the qualifications, powers and duties, or terms of office of board members as provided in Section 3-103(f), but the board may fill vacancies in its membership for the unexpired portion of any term.

(c) Within 30 days after adoption of any proposed budget for the condominium, the board shall provide a copy of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 14 nor more than 30 days after delivery or mailing of the budget to the unit owners. Unless at that meeting a majority of all the unit owners present in person or by proxy or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board.

(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him, may appoint and remove the officers and members of the board. Regardless of the period

provided in the declaration, a period of declarant control terminates no later than the earliest of (i) 60 days after conveyance of 75 percent of the units which may be created to unit owners other than a declarant; (ii) 2 years after all declarants have ceased to offer units for sale in the ordinary course of business; or (iii) 2 years after any development right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(e) Not later than 90 days after conveyance of 25 percent of the units which may be created to unit owners other than a declarant, at least one member and not less than 25 percent of the members of the board must be elected by unit owners other than the declarant. Not later than 90 days after conveyance of 50 percent of the units which may be created to unit owners other than a declarant, not less than 33 1/3 percent of the members of the board must be elected by unit owners other than the declarant.

(f) Except as otherwise provided in Section 2-120(e), not later than the termination of any period of declarant control, the unit owners shall elect a board of at least three members, at least a majority of whom must be unit owners other than declarant. The board shall elect the officers. The board members and officers shall take office upon election.

(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present in person and entitled to vote at any meeting of the unit owners at which a quorum in person is present, may remove any member of the board with or without cause, other than a member appointed by the declarant.

#### § 3-104. Transfer of Special Declarant Rights.

(a) No special declarant right specified in Section 1-103(23) created or reserved under this Act may be transferred except by an instrument evidencing the transfer recorded in every county in which any portion of the condominium is located. The instrument is not effective unless executed by the transferee.

(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this Act. Lack of privity does not deprive any

unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to any special declarant right is an affiliate of a declarant specified in Section 1-103(1), the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the condominium.

(3) If a transferor retains any special declarant right, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this Act or by the declaration relating to the retained special declarant rights and arising after the transfer.

(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Unless otherwise provided in a mortgage instrument or deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under Federal Bankruptcy Law or receivership proceedings, of any units owned by a declarant or real estate in a condominium subject to development rights, a person acquiring title to all the real estate being foreclosed or sold succeeds to all special declarant rights related to that real estate held by that declarant, or only to any rights reserved in the declaration pursuant to Section 2-115 and held by that declarant to maintain models, sales offices and signs.

(d) Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under Federal Bankruptcy Law or receivership proceedings, of all units and other real estate in a condominium owned by a declarant:

(1) the declarant ceases to have any special declarant rights, and

(2) the period of declarant control specified in Section 3-103(d) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.

(e) The liabilities and obligations of a person who succeeds to special declarant rights are as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this Act or by the declaration.



(2) A successor to any special declarant right, other than a successor described in paragraphs (3) or (4), who is not an affiliate of a declarant, is subject to all obligations and liabilities imposed by this Act or the declaration:

(i) on a declarant which relate to his exercise or non-exercise of special declarant rights; or

(ii) on his transferor, other than:

(A) misrepresentations by any previous declarant;

(B) warranty obligations on improvements made by any previous declarant, or made before the condominium was created;

(C) breach of any fiduciary obligation by any previous declarant or his appointees to the board; or

(D) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs pursuant to Section 2-115, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide an offering statement and any liability arising as a result thereof.

(4) A successor to all special declarant rights held by his transferor who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection (c), may declare the intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the board in accordance with the provisions of Section 3-103(d) for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under Section 3-103(d).

(f) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this Act or the declaration.

§ 3-105. Termination of Contracts and Leases of Declarant.

If entered into before the board elected by the unit owners pursuant to Section 3-103(f) takes office, (i) any management contract, employment contract, or lease of recreational or parking areas or facilities, (ii) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the board elected by the unit owners pursuant to Section 3-103(f) takes office upon not less than 90 days' notice to the other party. This section does not apply to any lease the termination of which would terminate the condominium or reduce its size, unless the real estate subject to that lease was included in the condominium for the purpose of avoiding the right of the association to terminate a lease under this section.

§ 3-106. Bylaws.

(a) The bylaws of the association must provide for:

(1) the number of members of the board and the titles of the officers of the association;

(2) election by the board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;

(3) the qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies;

(4) which, if any, of its powers the board or officers may delegate to other persons or to a managing agent;

(5) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(6) the method of amending the bylaws, but in no event shall the required percentage for amendment of the bylaws exceed two-thirds of the total association.

(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

§ 3-107. Upkeep of Condominiums.

(a) Except to the extent provided by the declaration, subsection (b), or Section 3-113(h), the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement

of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements, or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

(b) In addition to the liability that a declarant as a unit owner has under this Act, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other portion of the condominium is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant.

#### § 3-108. Meetings.

A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the board or by unit owners having 20 percent, or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or a member of the board.

#### § 3-109. Quorums.

(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast 20 percent of the votes which may be cast for election of the board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.

#### § 3-110. Voting; Proxies.

(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless

either the declaration or by-laws expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by the unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

(c) If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units: (i) the provisions of subsection (a) and (b) apply to lessees as if they were unit owners; (ii) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners must also be given notice, in the manner provided in Section 3-108, of all meetings at which lessees may be entitled to vote.

(d) No votes allocated to a unit owned by the association may be cast.

### § 3-111. Tort and Contract Liability.

Neither the association, any association mortgagee, nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association shall be brought against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner: (i) for all tort losses not covered by insurance suffered by the association or that unit owner, and (ii) for all costs which the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all reasonable litigation expenses, including reasonable attorneys fees, incurred by the association. Any statute of limitation affecting the association's right of action under this

section is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing an action contemplated by this section solely because he is a unit owner, or a member or officer of the association. Liens resulting from judgments against the association are governed by Section 3-117.

§ 3-112. Conveyance or Encumbrance of Common Elements.

(a) In a condominium portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 80 percent of the votes in the association, including 80 percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to non-residential uses. Proceeds of the sale are an asset of the association.

(b) An agreement to convey common elements in a condominium or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) The association, on behalf of the unit owners, may contract to convey an interest in a condominium pursuant to subsection (a), but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements, unless made pursuant to this section, is void.

(e) A conveyance or encumbrance of common elements pursuant to this section does not deprive any unit of its rights of access and support.

(f) Unless the declaration otherwise provides, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of pre-existing encumbrances.

§ 3-113. Insurance.

(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(1) property insurance on the common elements insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than the greater of 80 percent of the actual cash value of the insured property at the time the insurance is purchased or such greater percentage of such actual cash value as may be necessary to prevent the applicability of any co-insurance provision and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and

(2) liability insurance, including medical payments insurance, in an amount determined by the board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) In the case of a building containing units having horizontal boundaries described in the declaration, the insurance maintained under subsection (a)(1), to the extent reasonably available, must include the units, but need not include improvements and betterments installed by unit owners.

(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners.

(d) Insurance policies carried pursuant to subsection (a) must provide that:

(1) each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner or member of his household;

(3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(e) Any loss covered by the property policy under subsections (a)(1) and (b) must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner, or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(h) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(i) the condominium is terminated, in which case Section 2-118 applies,

(ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or

(iii) 80 percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

If the entire condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the condominium, (ii) except to the extent

that other persons will be distributees under Section 2-105(a)(12)(ii),

(A) the insurance proceeds attributable to units and limited common elements which are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear, and

(B) the remainder of the proceeds must be distributed to all the unit owners or lienholders, as their interests may appear, in proportion to the common element interests of all the units.

If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under Section 1-107(a), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations.

(i) The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to non-residential use.

#### § 3-114. Surplus Funds.

Unless otherwise provided in the declaration or by-laws, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

#### § 3-115. Assessments for Common Expenses.

(a) Until the association makes a common expense assessment, the declarant must pay all common expenses. After any assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association.

(b) Except for assessments under subsections (c), (d), and (e), all common expenses must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to Section 2-107(a) and (b). Any past due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

(c) To the extent required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed



against the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefitted; and

(3) the costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

(d) Assessments to pay a judgment against the association under Section 3-117(a) may be made only against the units in the condominium at the time the judgment was entered, in proportion to their common expense liabilities.

(e) If any common expense is caused by the misconduct of any unit owner or such unit owner's invitee, the association may assess that expense exclusively against his unit after notice and an opportunity to be heard.

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(g) All assessments shall also constitute the personal obligation of the unit owner to the association.

(h) No unit owner other than the association shall be exempted from any liability for any assessment under this Code section or under any condominium instrument for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use or enjoyment of his unit or any part of the common elements.

#### § 3-116. Lien for Assessments.

(a) The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate but the association shall give reasonable advance notice of its proposed action to the unit owner and all lienholders of record of the unit. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to Section 3-102(a)(10), (11) and (12) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration, (ii) a first security interest

on the unit recorded before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. The lien is also prior to the mortgages and deeds of trust described in clause (ii) above to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to Section 3-115(a) which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien under this section is not subject to the provisions of homestead or other exemptions.

(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(d) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(g) A judgment or decree in any action brought under this or the preceding section must include costs and reasonable attorney's fees actually incurred for the prevailing party.

(h) Any unit owner, mortgagee of a unit, person having executed a contract for the purchase of a condominium unit, or lender considering the loan of funds to be secured by a condominium unit shall be entitled upon request to a statement from the association or its management agent setting forth the amount of assessments past due and unpaid together with late charges and interest applicable thereto against that condominium unit. Such request shall be in writing, shall be delivered to the registered office of the association, and shall state an address to which the statement is to be directed. Failure on the part of the association to mail or otherwise furnish such statement regarding amounts due and payable if specified in the written request therefor within ten business days from the receipt of such request releases the association's lien against the unit for the amount of the assessment as of that date, but does not discharge the unit owner's debt to the association. The information specified in such statement shall be binding upon the association and upon

every unit owner. Payment of a fee not exceeding \$10.00 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

§ 3-117. Other Liens Affecting the Condominium.

(a) Except as provided in subsection (b), a judgment for money against the association if recorded is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the units in the condominium at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the association.

(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to Section 3-112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the condominium, if a lien other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the condominium, becomes effective against two or more units, the unit owner of an affected unit may pay to the lienholder the amount of the lien attributable to his unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association must be indexed in the name of the condominium and the association and, when so indexed, is notice of the lien against the units.

§ 3-118. Association Records.

The association shall keep financial records sufficiently detailed to enable the association to comply with Section 4-109. All financial and other records shall be made reasonably available for examination by any unit owner and his authorized agents and such records shall be made available in the county where the condominium is located.

§ 3-119. Association as Trustee.

With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without

inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

## ARTICLE 4

### PROTECTION OF CONDOMINIUM PURCHASERS

#### § 4-101. Applicability; Waiver.

(a) This Article applies to all units subject to this Act, except as provided in subsection (b) or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to non-residential use.

(b) Neither an offering statement nor a resale certificate need be prepared or delivered in the case of:

- (1) a gratuitous disposition of a unit;
- (2) a transfer pursuant to court order;
- (3) a disposition by a government or governmental agency;
- (4) a transfer by foreclosure or disposition by deed in lieu of foreclosure;
- (5) a disposition to a person in the business of selling real estate who intends to offer those units to purchasers; or
- (6) a disposition that may be canceled at any time and for any reason by the purchaser without penalty.
- (7) a disposition of a time share interest in a unit.

#### § 4-102. Liability for Offering Statement Requirements.

(a) Except as provided in subsection (b), a declarant, prior to the offering of any interest in a unit to the public, shall prepare an offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105 and 4-106.

(b) A declarant may transfer responsibility for preparation of all or a part of the offering statement to a successor declarant specified in Section 3-104 or to a person in the business of selling real estate who intends to offer units in the condominium for his own account. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a).

(c) Any declarant or other person in the business of selling real estate who offers a unit for his own account to a purchaser shall deliver an offering statement in the manner prescribed in subsection 4-108(a) and is liable under Sections 4-108 and, 4-117 for any false or misleading statement set forth therein or for any omission of material fact.

(d) If a unit is part of a condominium and is part of any other real estate regime in connection with the sale of which the delivery of an offering statement is required under the laws of this State, a single offering statement conforming to the requirements of Sections 4-103, 4-104, 4-105, and 4-106 as those requirements relate to each regime in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing 2 or more offering statements.

#### § 4-103. Offering Statement: General Provisions.

(a) Except as provided in subsection (b), an offering statement must contain or fully and accurately disclose:

(1) the name and principal address of the declarant and of the condominium;

(2) a general description of the condominium, including to the extent possible, the types, number, and declarant's schedule of commencement and completion of construction of buildings, and amenities that declarant anticipates including in the condominium;

(3) the number of units in the condominium;

(4) copies of the declaration, other than the plats and plans, as well as any other recorded covenants, conditions, restrictions and reservations affecting the condominium; the bylaws, and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and copies of any contracts or leases that will or may be subject to cancellation by the association under Section 3-105;

(5) any current balance sheet and a projected budget for the association, either within or as an exhibit to the offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumption concerning occupancy. The budget must include, without limitation:

(i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(ii) a statement of any other reserves;

(iii) the projected common expense assessment by category of expenditures for the association; and

(iv) the projected monthly common expense assessment for each type of unit;

(6) any services not reflected in the budget that the declarant provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

(7) any initial or special fee due from the purchaser at closing together with a description of the purpose and method of calculating the fee;

(8) a reference to, and a brief description of, any liens, known defects, or encumbrances on or affecting the title to the condominium;

(9) a description of any financing offered or arranged by the declarant and if the contract of sale offered to the purchaser does not contain a provision conditioning purchaser's obligation to perform the contract on obtaining financing, a statement that the purchaser will forfeit any deposit he has paid if the purchaser requires such financing but does not qualify for such financing as is offered or arranged by declarant;

(10) the terms and significant limitations of any warranties provided by the declarant, including statutory warranties provided in this act and limitations on the enforcement thereof or on damages;

(11) a statement that:

(i) within 7 days after receipt of a offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant,

(ii) if a declarant fails to provide a offering statement to a purchaser before conveying a unit, that purchaser may rescind the conveyance within 7 days after first receiving the offering statement, and

(iii) if a purchaser receives the public offering statement more than 7 days before signing a contract, he cannot cancel the contract;

(12) a statement of any unsatisfied judgments or pending suits against the association; and the status of any pending suits material to the condominium of which a declarant has actual knowledge;

(13) a statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing

and will be returned to the purchaser if the purchaser cancels the contract pursuant to Section 4-108, together with the name and address of the escrow agent;

(14) any restraints on sale or lease of any units in the condominium and any restrictions:

(i) on use, occupancy or alienation of the units, and

(ii) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or to the condominium or on the termination of the condominium;

(15) a brief description of the insurance coverage provided for the benefit of unit owners;

(16) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium;

(17) the extent to which financial arrangements have been provided for completion of all improvements that the declarant is obligated to build pursuant to Section 4-116 (Declarant's Obligation to Complete and Restore).

(18) a brief narrative description of any zoning affecting the condominium; and

(19) The applicable amendment requirements as provided in the declaration or as provided by Alabama law.

(b) If a condominium composed of not more than 12 units is not subject to any development rights, and no power is reserved to a declarant to make the condominium part of a larger condominium, group of condominiums, or other real estate, an offering statement may but need not include the information otherwise required by paragraphs (9), (10), (15), (16), (17), and (18) of subsection (a).

(c) A declarant shall promptly amend the offering statement to report any material change in the information required by this section.

§ 4-104. Same; Condominiums Subject to Development Rights.

If the declaration provides that a condominium is subject to any development rights, the offering statement must disclose, in addition to the information required by Section 4-103:

(1) the maximum number of units, and the maximum number of units per acre, that may be created;

(2) a statement of how many or what percentage of the units which may be created will be restricted exclusively to residential use,

or a statement that no representations are made regarding use restrictions;

(3) if any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas, and the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use;

(4) a statement of any development rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;

(5) a statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in paragraph (3);

(6) a statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the condominium will be compatible with existing buildings and improvements in the condominium in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;

(7) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

(8) a statement of any limitations as to the locations of any building or other improvement that may be made within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

(9) a statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the condominium, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

(10) a statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the condominium, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;



(11) a statement that all restrictions in the declaration affecting use, occupancy, and sale or lease of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

(12) a statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.

§ 4-105. Same; Time Shares.

If the declaration provides that ownership or occupancy of any units is or may be in time shares, the offering statement shall disclose, in addition to the information required by Section 4-103:

(1) the number and identity of units in which time shares may be created;

(2) the total number of time shares that may be created;

(3) the minimum duration of any time shares that may be created; and

(4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in Section 3-116.

§ 4-106. Same; Condominiums Containing Conversion Buildings.

The offering statement of a condominium containing any conversion building containing units that may be occupied for residential use must contain, in addition to the information required by Section 4-102:

(a) a statement by the declarant, to the best of declarant's knowledge, of the approximate age of structural components and mechanical and electrical installations which are material to the use and enjoyment of the building or an affirmative statement in bold face print that no representations are made in that regard and;

(b) a list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.

§ 4-107. Same; Condominium Securities.

If an interest in a condominium is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies all requirements relating to the preparation of an offering statement of this Act if he delivers to the purchaser a copy of the

offering statement filed with the Securities and Exchange Commission.

**§ 4-108. Purchaser's Right to Cancel.**

(a) A person required to deliver an offering statement pursuant to Section 4-102(c) shall provide a purchaser of a unit with a copy of the offering statement and all amendments thereto before conveyance of that unit, and not later than the date of any contract of sale. Unless a purchaser is given the offering statement more than 7 days before execution of a contract for the purchase of a unit, the purchaser may cancel the contract, or rescind the conveyance if a conveyance has already occurred, within 7 days after first receiving the offering statement.

(b) If a purchaser elects to cancel a contract or conveyance pursuant to subsection (a), he may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

(c) If a person required to deliver an offering statement pursuant to Section 4-102(c) fails to provide a purchaser to whom a unit is conveyed with that offering statement and all amendments thereto as required by subsection (a), the purchaser, at the purchaser's option and in lieu of any rights to damages or other relief, is entitled to receive from that person an amount equal to five (5) percent of the sales price of the unit at anytime prior to the expiration of six months from the date of conveyance of the unit, plus five (5) percent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the condominium.

**§ 4-109. Resales of Units.**

(a) Except in the case of a sale where delivery of an offering statement is required, or unless exempt under Section 4-101(b), a unit owner upon written request by the purchaser shall furnish to a purchaser before conveyance, a copy of the declaration, other than the plats and plans, the bylaws, the rules or regulations of the association, and a certificate containing:

(1) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;

(2) a statement of any other fees payable by unit owners;

(3) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(4) the current operating budget of the association;

(5) a statement of any unsatisfied judgments against the association and any pending suit in which the association is a party;

(6) a statement describing any insurance coverage provided for the benefit of unit owners;

(7) a statement of the remaining term of any lease hold estate affecting the condominium and the provisions governing any extension or renewal thereof;

(8) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale, condemnation, casualty loss to the unit or condominium or on termination of the condominium.

(b) The association, within ten (10) days after a request by a unit owner, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for five (5) days thereafter or until conveyance, whichever first occurs.

#### § 4-110. Escrow of Deposits.

Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver an offering statement pursuant to Section 4-102(c) shall be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed real estate broker or an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing; (ii) delivered to the declarant because of purchaser's default under a contract to purchase the unit; or (iii) refunded to the purchaser. The funds representing such deposit shall be held in an interest bearing account and the interest shall belong to the party entitled to the principal deposit.

#### § 4-111. Release of Liens.

(a) In the case of a sale of a unit where delivery of an offering statement is required pursuant to Section 4-102(c), a seller shall

before conveying a unit, (1) record or furnish to the purchaser releases of all liens, except liens on real estate that a declarant has the right to withdraw from the condominium, that the purchaser does not expressly agree in a written contract of sale which specifically identifies such lien and its amount to take subject to or assume and that encumber a condominium, that unit and its common element interest, or (2) provide a surety bond or substitute collateral for or insurance against the lien in the manner provided for liens on real estate in Ala. Code § 35-11-233(b).

(b) Before conveying real estate to the association the declarant shall have that real estate released from: (1) all liens the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units, and (2) all other liens on that real estate unless the offering statement describes certain real estate which may be conveyed subject to liens in specified amounts.

#### § 4-112. Conversion Buildings.

(a) A declarant of a condominium containing conversion buildings, and any person in the business of selling real estate for his own account who intends to offer units in such a condominium shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion no later than sixty 60 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and shall be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than sixty (60) days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession,

(b) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise complies with the provisions of Ala. Code 35-9-80 (1975), the notice also constitutes a notice to terminate specified by that statute.

(c) Nothing in this section permits termination of a lease by a declarant in violation of the terms of the lease.

#### § 4-113. Express Warranties.

(a) Express warranties made by declarant, his affiliate, and any person in the business of selling real estate for his own account, to

a purchaser of a unit, if relied upon by the purchaser, are created as follows:

(1) any affirmation of material fact or material promise which relates to the unit, its use, or rights appurtenant thereto, improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warrant that the unit and related rights and uses will conform to the affirmation or promise;

(2) any model or description of the physical characteristics of the condominium, including plans and specifications of or for improvements, creates an express warranty that the condominium will substantially conform to the model or description;

(3) any description of the quantity or extent of the real estate comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerances; and

(4) a provision that a buyer may put a unit only to a specified use is an express warranty that the specified use is lawful.

(b) Neither formal words, such as "warranty" or "guarantee", nor a specific intention to make a warranty, are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

#### § 4-114. Effect of Violations on Rights of Action; Attorney's Fees.

If a declarant or any other person subject to this Act fails to comply with any provision hereof or any provision of the declaration or bylaws, any person or class of persons adversely affected by the failure to comply has a claim for actual damages or appropriate equitable relief. The court, in an appropriate case, may award reasonable attorney's fees to either party.

#### § 4-115. Labeling of Promotional Material.

No promotional material may be displayed or delivered to prospective purchasers which describes or portrays an improvement unless the description or portrayal of the improvement that is not in existence in the promotional material is conspicuously labeled or identified as, "NEED NOT BE BUILT."

#### § 4-116. Declarant's Obligation to Complete and Restore.

(a) Except for improvements labeled, "NEED NOT BE BUILT" the declarant shall complete all improvements depicted on any site plan or graphic representation including plats or plans prepared pursuant to Section 2-109, whether or not that site plan or other

graphic representation is contained in the offering statement or any promotional material distributed by or for the declarant.

(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the condominium, of any portion of the condominium affected by the declarant's exercise of rights reserved pursuant to or created by Sections 2-110, 2-111, 2-112, 2-113, 2-115, and 2-116.

§ 4-117. Substantial Completion of Units.

In the case of a sale of a unit where delivery of an offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, or voted until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an independent registered architect, or independent registered engineer, or by issuance of a certificate of occupancy authorized by law.

Approved April 19, 1990

Time: 3:37 P.M.

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Act No. 90-552

H. 430—Reps. Hall and Gray

AN ACT

To require hospitals to notify all pre-hospital agencies who assisted in delivering a person to a hospital, if the hospital learns said person has an infectious disease.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The chief administrator, or their designee, of a hospital, pursuant to rules promulgated by the Department of Public Health, shall notify all pre-hospital agencies who assisted in handling and delivering a person to a hospital, if the hospital learns said person has an infectious disease. The State Board of Health shall designate what shall constitute an infectious disease for the purpose of this act. For the purposes of this act the term "hospital" shall have the meaning prescribed by Section 22-21-20, Code of Alabama 1975. For the purposes of this act the term "pre-hospital agencies" shall include but shall not be limited to paramedics, firemedics, firemen, law enforcement officers, ambulance drivers, medical personnel, and similar emergency personnel.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:38 P.M.

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Act No. 90-553

H. 473—Rep. Perdue

### AN ACT

Establishing a telecommunications division within the department of finance; providing for the acquisition of telecommunications equipment, systems and related services on behalf of state agencies; prescribing procedures for such acquisition; authorizing the promulgation of rules and regulations; prescribing powers and duties; establishing a telecommunications revolving fund; exempting two-way radio systems utilized for purposes related to public safety or the administration of criminal justice; providing for the exemption of universities from the provisions of the act and exempting the legislative and judicial branches from the requirements of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the purposes of this act, the following words and phrases shall have the meanings ascribed:

(a) "Department" shall mean the department of finance.

(b) "Agency" shall mean any agency, department, board, commission, office, agency or institution of the state, except those agencies and institutions excluded by Section 12 of this act.

(c) "Electromagnetic transmission equipment" means any transmission medium, switch, instrument, inside wiring system or other facility which is used, in whole or in part, to provide any transmission.

(d) "Equipment support contract" means a contract which covers a specific class or classes of telecommunications equipment and all features associated with that class, through which state agencies may purchase or lease the item specified by issuing a purchase order under the terms of the contract without the necessity of further competitive bidding.

(e) "Procurement" means the buying, purchasing, renting, leasing, lease/purchasing or otherwise obtaining telecommunications equipment, systems or related services, as well as all activities engaged

in, resulting in or expected to result in buying, purchasing, renting, leasing or otherwise obtaining telecommunications equipment.

(f) "Telecommunications equipment, systems, related services" means:

(i) all devices, such as telephone instruments, modulators, coders, etc., used to convert voices or digital data into a form suitable for transmission, by electric current or electromagnetic wave, from one point to another point;

(ii) all devices, such as telephone receivers, demodulators, decoders, etc., used to receive an electric current or electromagnetic wave containing voice information or digital data, and/or to convert this information into usable form;

(iii) all wiring, waveguides, optical fibers, or other physical means used to convey electric currents or electromagnetic waves containing voice information or digital data;

(iv) all switches, networks, branch exchanges, software, and other devices used to selectively interconnect devices which use electric current or electromagnetic waves for the purpose of communicating voice signals or digital data from one point to another;

(v) all maintenance of the types of devices and means listed above in (i) through (iv), and all consulting, designs, or management services related to these devices, their interconnection, and their use.

(g) "Telecommunications system lease contract" means a contract between a supplier of telecommunications systems, including equipment and related services, and any agency as authorized by the department through which telecommunications systems, including equipment and related services, may be leased.

**Section 2.** The legislature hereby declares it essential for the creation and maintenance of an efficient, modern, economically feasible, telecommunications system for Alabama state government that a telecommunications division be established under the jurisdiction of the department of finance. The purposes of this act shall be to coordinate and promote efficiency in the acquisition, operation and maintenance of all telecommunications equipment, systems and networks being used by agencies of the state and further to coordinate the compatibility of such equipment, systems and networks so as to promote a uniform, compatible communications system for agencies of state government.

**Section 3.** The department may promulgate rules and regulations governing the manner in which the authority and duties of the telecommunications division as prescribed in this act shall be



carried out. The department shall employ competent personnel necessary to carry out its purposes under rules promulgated by the state personnel department and in accord with the merit system act.

**Section 4.** The department is hereby authorized and empowered to exercise such duties and powers necessary to effectuate the purposes of this act, including the following:

(a) Provide effective management of state telecommunications resources and implement annual plans and procurement;

(b) Manage, plan and coordinate all telecommunications systems under the jurisdiction of the state. This centralized management function shall be provided through the following activities:

(i) Administration of existing systems including coordination of activities, vendors, service orders and billing/record-keeping functions;

(ii) Planning of new systems or services;

(iii) Design of replacement systems;

(iv) Project management during specification writing, bid letting, proposal evaluation and contract negotiations;

(v) Implementation supervision of new systems and ongoing support;

(vi) Implementation of long-term state plans;

(vii) Management of telecommunications networks.

**Section 5.** The department shall have the following additional duties:

(a) To establish and coordinate through either state ownership or commercial leasing, all telecommunications systems and services affecting the management and operations of the state.

(b) To act as the centralized approving authority for the acquisition of all telecommunications systems or services provided to state agencies whether obtained through lease or purchase, including pay telephones located on premises owned by the state or any of its agencies.

(c) To charge respective user agencies for their proportionate cost of the installation, maintenance and operation of the telecommunications systems and services, including the operation of the telecommunications division.

(d) To develop coordinated telecommunications systems or services within and among all state agencies and require, where appropriate, cooperative utilization of telecommunications equipment, facilities and services by aggregating users.

(e) To review, coordinate, approve or disapprove all requests by state agencies for the procurement, through purchase or lease, of telecommunications systems or services including telecommunications proposals, studies and consultation contracts.

(f) To establish and define telecommunications system and service specifications and designs so as to assure compatibility of telecommunications systems and services within state government.

(g) To provide a continuous, comprehensive analysis and inventory of telecommunications costs, facilities and systems within state government.

(h) To advise and provide consultation to agencies with respect to telecommunications management planning and related matters including training within state government in telecommunications technology and system use.

**Section 6.** No agency shall rent, lease, lease/purchase, or in any way own or pay for the operation of any telecommunications system out of any funds available for that purpose without the written approval of the department.

**Section 7.** The department may, on behalf of any state agency, enter into an equipment support contract with a vendor of telecommunications equipment for the purchase, lease or lease/purchase of such equipment subject to the competitive bid law. Such contracts shall be valid for not more than five fiscal years and must include the following annual appropriation dependency clause: "The continuation of the contract is contingent upon the appropriation by the legislature of funds to fulfill the requirements of the contract. If the legislature fails to appropriate sufficient monies to provide for the continuance of the contract, or if funds from other sources are not available, the contract shall terminate on the date of the beginning of the fiscal year for which funds are not appropriated or available."

**Section 8.** The department shall have the authority to allow the trade-in of telecommunications equipment the value of which may be credited against the cost of replacement equipment purchased in accordance with Alabama competitive bidding laws. This authority may be exercised with the approval of the state purchasing agent.

**Section 9.** The department may enter into contracts for the lease of telecommunications equipment, systems or related services in accordance with the following provisions:

(a) The department may directly contract for or approve contracts for regulated or tariffed telecommunications services upon determination that the application of such service is in the best interests of the State of Alabama.

(b) Such contracts shall be valid for not more than five fiscal years.

**Section 10.** All user fees collected, direct appropriations, and other funds received under the provisions of this act shall be deposited into a revolving fund in the state treasury designated as the telecommunications revolving fund, and the director of finance is authorized to make deposits and expenditures from time to time from such fund to carry out the purposes of this act. All balances of revenue, income and receipts remaining in the telecommunications revolving fund at the end of the fiscal year shall carry over to the next fiscal year and shall not revert to the state general fund or any other fund under the provisions of section 41-4-93, Code of Alabama 1975.

**Section 11.** The provisions of this act shall not apply to two-way radio communications equipment, systems or networks operated by state agencies for purposes related to public safety, the administration of criminal justice or highway maintenance and construction operations.

**Section 12.** The provisions of this act shall not apply to the Education Television Commission, the Post-Secondary Education System or any public college or university. Upon request, the Department of Finance shall provide technical consultation and procurement services for telecommunications to the Education Television Commission, the Post-Secondary Education System and public colleges and universities. The Education Television Commission, the Post-Secondary Education System and public colleges and universities shall continue to be provided in-state and out-of-state long distance service by the telecommunications division of the Department of Finance, so long as funding is provided to the telephone revolving fund from the Alabama Special Educational Trust Fund, and shall not be required to pay any additional charge for such service.

**Section 13.** The Telecommunications Division of the Finance Department shall be subject to the provisions of the Alabama Sunset Law of 1981, and shall be classified an enumerated agency under Title 41-20-3, Code of Alabama 1975, as amended, and shall terminate in 1992 unless continued as therein provided and, if continued, shall be reviewed every two years thereafter and terminated unless then continued as provided by said law.

**Section 14.** The Legislative and Judicial Branches of government are exempt from the requirements of this act.

**Section 15.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 16.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 17.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:39 P.M.

Act No. 90-554

H. 256—Reps. Marietta-Lyons, Box,  
Fuller, Higginbotham and  
Campbell

### AN ACT

To provide for the revision of the adoption laws to be known as the "Alabama Adoption Code" by providing general provisions, definitions, jurisdiction, venue and procedure; by amending Section 26-10-4.1, so as to provide further for investigation fees charged by the State Department of Human Resources; by amending Section 40-18-15 of the Code of Alabama 1975, relating to income taxes so as to allow individuals a deduction for certain adoption expenses; by providing punishment for certain violations; by repealing Sections 26-10-1 through 26-10-10 of Code of Alabama 1975, relating to general adoption laws except section 26-10-4.1 relating to investigation fees charged by the State Department of Human Resources; by repealing Sections 43-4-1 through 43-4-4 of the Code of Alabama 1975, relating to adoption of adults for purposes of inheritance; and to provide for the application to existing adoptions and for an effective date of January 1, 1991 except that section 26-10-4.1, as amended, shall become effective on June 1, 1990.

*Be It Enacted by the Legislature of Alabama:*

#### **Section 1—Short Title.**

This chapter shall be known as and may be cited as the Alabama Adoption Code.

**Section 2—Definitions.** The following words and phrases shall have the following meaning whenever used in this chapter except where the context clearly indicates a different meaning:

1. "Abandonment" a voluntary and intentional relinquishment of the custody of a minor by parent, or a withholding from the minor, without good cause or excuse, by the parent, of his presence, care, love, protection, maintenance, or the opportunity for the display of filial affection, or the failure to claim the rights of a parent, or the failure to perform the duties of a parent.

2. "Adoptee" the person being adopted.

3. "Adult" a person who is 19 years of age or older or who by statute is otherwise deemed an adult.

4. "Consent" voluntarily agreeing to adoption.

5. "Father" a male person who is the biological father of the minor or is treated by law as the father.

6. "Licensed child placing agency" any adoption agency that is licensed under the provisions of the Alabama Child Care Act of 1971 or any adoption agency approved by the Department of Human Resources.

7. "Minor" a person under the age of 19.

8. "Mother" a female person who is the biological mother of the minor or is treated by law as the mother.

9. "Parent" natural or legal father or mother.

10. "Parties in interest" the adoptive parents and the natural parents unless the rights of the natural parents have been terminated or relinquished for purposes of adoption then the agency that has custody becomes a party in interest. This phrase does not include the adoptee.

11. "Presumed father" any male person as defined in the Alabama Uniform Parentage Act.

12. "Putative father" the alleged or reputed father.

13. "Relinquishment" giving up the physical custody of a minor for purpose of placement for adoption to a licensed child placing agency or the Department of Human Resources.

14. "Special needs child" a child as defined by the Federal Adoption Assistance and Child Welfare Act of 1980.

### **Section 3—Jurisdiction.**

The Probate Court shall have original jurisdiction over proceedings brought under the Act. If any party whose consent is required fails to consent or is unable to consent, the proceeding will be transferred to the court having jurisdiction over juvenile matters for the limited purpose of termination of parental rights. The provisions of this Act shall be applicable to proceedings in the court having jurisdiction over juvenile matters.

### **Section 4—Venue.**

All petitions may be filed in the Probate Court in the county in which:

- (a) the minor resides or has a legal residence:
- (b) a petitioner resides, or is in military service; or

(c) an office of any agency or institution operating under the laws of this state having guardianship or custody of the minor is located.

### **Section 5—Who May Adopt.**

Any adult person or husband and wife jointly who are adults may petition the court to adopt a minor.

(a) No rule or regulation of the Department of Human Resources shall prevent an adoption by a person/persons solely because the person/persons is employed outside the home, provided however, the Department of Human Resources may exercise sound discretion in requiring person/persons to remain in the home with a minor for a reasonable period of time when a particular minor requires the presence of that person/persons to ensure his/her adjustment. Provided, however, said reasonable period of time shall not exceed 60 consecutive calendar days.

(b) No rule or regulation of the Department of Human Resources or any agency shall prevent an adoption by a single person solely because such person is single or shall prevent an adoption solely because such person is of a certain age.

(c) Provided however, in cases, where one who purports to be the biological father marries the biological mother, on petition of the parties, the Court shall order paternity tests to determine the true biological father. If the Court determines by substantial evidence that the biological father is the man married to the biological mother, then the biological father shall be allowed to adopt said child without the consent of the man who was married to the biological mother at the time of the conception and/or birth of said child, when the Court finds said adoption to be in the best interest of the child.

### **Section 6—Who May Be Adopted.**

Any minor may be adopted.

### **Section 7—Persons Whose Consents or Relinquishment are Required.**

Consent to the petitioner(s)' adoption or relinquishment for adoption to the Department of Human Resources or a licensed child placing agency shall be required of the following:

(a) The adoptee, if fourteen (14) years of age or older, except where the court finds that the adoptee does not have the mental capacity to give consent;

(b) The adoptee's mother;

(c) The adoptee's presumed father, regardless of paternity, if:

(1) He and the adoptee's mother are or have been married to each other and the adoptee was born during the marriage, or within three hundred (300) days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation was entered by a court; or

(2) Before the adoptee's birth, he and the adoptee's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and,

(i) If the attempted marriage could be declared invalid only by a court, the adoptee was born during the attempted marriage, or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) If the attempted marriage is invalid without a court order, the adoptee was born within three hundred (300) days after the termination of cohabitation; or

(3) After the adoptee's birth, he and the adoptee's mother have married, or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) With his knowledge or consent, he was named as the adoptee's father on the adoptee's birth certificate; or

(ii) He is obligated to support the adoptee pursuant to a written voluntary promise or agreement or by court order; or

(4) He received the adoptee into his home and openly held out the adoptee as his own child;

(d) The agency to which the adoptee has been relinquished or which holds permanent custody and which has placed the adoptee for adoption, except that the court may grant the adoption without the consent of the agency if the adoption is in the best interests of the adoptee and there is a finding that the agency has unreasonably withheld its consent; and

(e) The putative father if made known by the mother or is otherwise made known to the court provided he responds within thirty (30) days to the notice he receives under Section 17(a) (10).

#### **Section 8—Consent or Relinquishment by a Minor Parent.**

(a) Prior to a minor parent giving consent a guardian ad litem must be appointed to represent the interests of a minor parent whose consent is required. Any minor, fourteen (14) years of age and beyond,

can nominate a guardian ad litem either prior to the birth of the baby or thereafter.

(b) A consent or relinquishment executed by a parent who is a minor shall not be subject to revocation by reason of such minority.

**Section 9—Implied Consent or Relinquishment.**

A consent or relinquishment required by Section 7 of this Act may be implied by any of the following acts of a parent:

(a) Leaving the adoptee without provision for his or her identification for a period of thirty (30) days; or

(b) Knowingly leaving the adoptee with others without provision for support and without communication, or not otherwise maintaining a significant parental relationship with the adoptee for a period of six (6) months; or

(c) Receiving notification of the pendency of the adoption proceedings under Section 17 and failing to answer or otherwise respond to the petition within thirty (30) days.

**Section 10—Persons Whose Consents or Relinquishments are Not Required.**

Notwithstanding the provisions of Section 7, the consent or relinquishment of the following persons shall not be required for an adoption:

(a) A parent whose rights with reference to the adoptee have been terminated by operation of law in accordance with the Alabama Child Protection Act, Ala. Code §§ 26-18-1 through 26-18-10 (1975);

(b) A parent who has been adjudged incompetent pursuant to law or a parent whom the court finds to be mentally incapable of consenting or relinquishing and whose mental disability is likely to continue for so long a period that it would be detrimental to the adoptee to delay adoption until restoration of the parent's competency or capacity. The court must appoint independent counsel or a guardian ad litem for an incompetent parent for whom there has been no such prior appointment;

(c) A parent who has relinquished his or her minor child to the Department of Human Resources or a licensed child placing agency for an adoption; or

(d) A deceased parent or one who is presumed to be deceased under Alabama law.

(e) An alleged father who has signed a written statement denying paternity.



(f) The natural father where the natural mother indicates the natural father is unknown, unless the natural father is otherwise made known to the court.

**Section 11—Consent or Relinquishment.**

A consent or relinquishment must be in writing, signed by the person consenting or relinquishing, and shall state the following:

- (a) The date, place, and time of execution;
- (b) The date of birth or if prior to birth expected date of birth of the adoptee and any names by which the adoptee has been known;
- (c) The relationship of the person consenting or relinquishing to the adoptee;
- (d) The name of each petitioner, unless (1) the document is relinquishment of the adoptee to an agency, or (2) the consent contains a statement that the person executing the consent knows that he or she has a right to know the identity of each petitioner but voluntarily waives this right;
- (e) That the person executing the document is voluntarily and unequivocally consenting to the adoption of the named adoptee;
- (f) That by signing the document and subsequent court order to ratify the consent, the person executing the document understands that he or she will forfeit all rights and obligations; that he or she understands the consent or relinquishment and executes it freely and voluntarily;
- (g) That the person executing the document understands that the consent may be irrevocable, and should not execute it if he or she needs or desires psychological or legal advice, guidance or counseling;
- (h) The address of the court in which the petition for adoption has been or will be filed, if known, and if not known, the name and address of the agency, the petitioners or their attorney on whom notice of the withdrawal of consent may be served;
- (i) In the case of relinquishment, the name and address of the agency to which the adoptee has been relinquished;
- (j) That the person executing the same has received or been offered a copy of the consent or relinquishment;
- (k) That the person executing a relinquishment waives further notice of the adoption proceeding;
- (l) That the person executing a consent waives further notice of the adoption proceedings, unless there is a contest or appeal of the adoption proceeding.

**Section 12—Persons Who May Take Consents or Relinquishments; Forms.**

(a) A consent of the natural mother taken prior to the birth of a child shall be signed or confirmed before a judge of probate. At the time of taking the consent the judge shall explain to the consenting parent the legal effect of signing the document and the time limits and procedures for withdrawal of the consent and shall provide the parent with a form for withdrawing the consent in accordance with the requirements of Sections 13 and 14.

(b) All other prebirth or post birth consents or relinquishments shall be signed or confirmed before:

(1) A judge or clerk of any court which has jurisdiction over adoption proceedings, or a public officer appointed by such judge for the purpose of taking consents; or

(2) A person appointed to take consents who is appointed by any agency which is authorized to conduct investigations or home studies provided by Section 19 of this Act, or, if the consent is taken out of state, by a person appointed to take consents by any agency which is authorized by that state's law to conduct investigations and home studies for adoptions; or

(3) A Notary Public.

(c) The form for the consent or relinquishment or the withdrawal of the consent or relinquishment shall state in substantially the same form as follows:

CONSENT OR RELINQUISHMENT OF MINOR FOR ADOPTION  
THE STATE OF ALABAMA \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY)

KNOW ALL MEN BY THESE PRESENT, that:

1. I, \_\_\_\_\_  
(name of person consenting or relinquishing)

the \_\_\_\_\_ of  
(parents, legal guardian, agency)

(a) a minor \_\_\_\_\_  
(state any names by which the minor has been known)

born \_\_\_\_\_, 19\_\_\_\_.

(or)

(b) an unborn child whose expected date of birth is \_\_\_\_\_,  
do hereby:

(a) consent to the adoption of the said minor by

---

(name of petitioners, unless identity waived)

(or)

(b) relinquish the said minor for the purpose of adoption to

---

(name and address of agency)

in order that said minor may have all the privileges which may be accorded to (him) (her) by the laws of Alabama upon (his) (her) legal adoption;

2. I am executing this document voluntarily and unequivocally thereby [consenting to the adoption of] [relinquishing] said minor;

3. I understand that by signing this document and the subsequent court order to ratify the consent, I will forfeit all rights and obligations and that I understand the [consent to the adoption] [relinquishment] and execute it freely and voluntarily;

4. I understand that the [consent to the adoption] [relinquishment] may be irrevocable, and I should not execute it if I need or desire psychological or legal advice, guidance or counseling;

5. I have received or been offered a copy of this document;

6. I waive the right to know the identity of each petitioner who petitions to adopt the said minor child;

7. [I waive further notice of the adoption proceedings by the execution of this relinquishment to the named agency];

(or)

[I waive further notice of the adoption proceedings by the execution of this consent, unless there is a contest or appeal of the adoption proceedings];

8. I understand that notice of withdrawal of [consent] [relinquishment] must be mailed to

[\_\_\_\_\_,  
(county where consent or petition is filed if known)]

Probate Court at the following address \_\_\_\_\_]  
(or)

[\_\_\_\_\_  
(name and address of agency with whom document is

---

filed or the petitioners or their attorney if county where

---

petition is filed is unknown)

and that such withdrawal must be mailed within five days after the birth of said minor or the execution of this document whichever comes last;

9. I do hereby request that the Probate Judge make all such orders and decrees as may be necessary or proper to legally effectuate said adoption.

Given under my hand at \_\_\_\_\_ o'clock, \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_  
(address of filing)

\_\_\_\_\_(SEAL)  
Affiant's Signature

"I, \_\_\_\_\_, sign by name to this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and being first duly sworn, do hereby declare to the undersigned authority that I execute it as my free and voluntary act for the purposes therein expressed, and that I am \_\_\_\_\_ years of age or older, of sound mind, and under no constraint or undue influence."

\_\_\_\_\_(SEAL)  
Affiant's Signature

STATE OF ALABAMA )  
COUNTY OF \_\_\_\_\_)

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

SEAL (Signed) \_\_\_\_\_  
(Official Capacity of Officer)

I acknowledge receipt of two copies of this document.

\_\_\_\_\_(SEAL)  
Date

I \_\_\_\_\_, on this  
affiant  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at  
\_\_\_\_\_ a.m./p.m.  
(time of day)  
in the presence of the two witnesses whose signatures and addresses

are subscribed below, hereby withdraw the adoption [consent] [relinquishment] previously signed by me.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Affiant's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Address

**Section 13—Time of Consent or Relinquishment; Filing with Court.**

(a) A consent or relinquishment may be taken at any time, except that once signed or confirmed, may be withdrawn within five (5) days after birth or within five (5) days after signing of the consent or relinquishment, whichever comes last.

(b) Consent or relinquishment can be withdrawn if the court finds that the withdrawal is reasonable under the circumstances and consistent with the best interest of the child within fourteen (14) days after the birth of the child or within fourteen (14) days after signing of the consent or relinquishment, whichever comes last.

(c) All consents or relinquishments required by this act shall be filed with the court in which the petition for adoption is pending before the final decree of adoption is entered.

**Section 14—Withdrawal of Consent or Relinquishment.**

(a) The consent or relinquishment, once signed or confirmed, may not be withdrawn except (1) as provided in section 13; or (2) at any time until the final decree upon a showing that the consent or relinquishment was obtained by fraud, duress, mistake, or undue influence on the part of a petitioner or his agent or the agency to whom or for whose benefit it was given. After one year from the date of final decree of adoption is entered, a consent or relinquishment may not be challenged on any ground, except in cases where the adoptee has been kidnapped.

(b) The withdrawal of consent or relinquishment as provided in Section 13(a) shall be effected by the affiant signing and dating the withdrawal form provided pursuant to Section 12(c) or other written withdrawal of consent containing the information set forth in Section

12(c), and by delivering the withdrawal to the Court or having the withdrawal postmarked within five (5) days of the child's birth or of signing the consent or relinquishment, whichever comes last.

(c) The petition to withdraw consent or relinquishment must be in writing, signed by the person seeking to withdraw the consent or relinquishment, dated, and signed by two witnesses.

(d) In adjudicating a petition to withdraw a consent or relinquishment, the person seeking to withdraw the consent or relinquishment shall establish the facts necessary to withdraw the consent or relinquishment by a preponderance of the evidence. The court shall not apply any presumption or preference in favor of the natural parents in reviewing an action brought under this Section.

(e) If the court directs that the consent or relinquishment be withdrawn, the court shall order the minor restored to the custody of his or her parent, the Department of Human Resources or a licensed child placing agency; otherwise, the court shall deny the withdrawal and declare that the consent or relinquishment is final and binding. Any order made by the court upon a petition to withdraw consent or relinquishment under this Section shall be deemed a final order for the purpose of filing an appeal under Section 26.

**Section 15—Surrender of Custody of Minor Under Age of Majority.**

(a) No health facility shall surrender the physical custody of an adoptee to any person other than the Department of Human Resources, a licensed child placing agency, parent, relative by blood or marriage, or person having legal custody, unless such surrender is authorized in a writing executed after the birth of the adoptee by one of the adoptee's parents or agency or the person having legal custody of the adoptee.

(b) A health facility shall report to the Department of Human Resources on forms supplied by the Department, the name and address of any person and, in the case of a person acting as an agent for an organization, the name and address of the organization to whose physical custody an adoptee is surrendered. Such report shall be transmitted to the Department within forty-eight (48) hours from the surrendering of custody.

(c) No adoptee shall be placed with the petitioners prior to the completion of a pre-placement investigation except for good cause shown and with written notice immediately given to the court, and to the County Department of Human Resources.

**Section 16—Petition.**

(a) A petition for adoption shall be filed with the clerk of the court within thirty (30) days after the minor is placed with the

prospective adoptive parent or parents for purposes of adoption unless the minor is in custody of the Department of Human Resources or a licensed child placing agency except that a petition for good cause shown may be filed beyond the thirty (30) day period. The petition shall be signed, and verified by each petitioner, and shall allege:

(1) The full name, age, and place of residence of each petitioner and, if married, the place and date of marriage;

(2) The date and place of birth of the adoptee, except in the case of abandonment;

(3) The birth name of the adoptee, any other names by which the adoptee has been known, and the adoptee's proposed new name;

(4) Where the adoptee is residing at the time of the filing of the petition, and if the minor is not in the custody of a petitioner, when he, she, or they intend to acquire custody;

(5) That each petitioner desires to establish a parent and child relationship between himself or herself and the adoptee and that he or she is a fit and proper person able to care for and provide for the adoptee's welfare;

(6) The existence and nature of any prior court orders known to the petitioner which affect the custody, visitation, or access to the adoptee;

(7) The relationship, if any, of each petitioner to the adoptee;

(8) The name and address of the placing agency, if any; and

(9) The names and addresses of all persons known to the petitioner at the time of filing from whom consents or relinquishment to the adoption are required;

(b) The caption of a petition for adoption shall be styled "In the Matter of the Adoption Petition of \_\_\_\_\_." Each petitioner shall be designated in the caption.

(c) The petition shall be accompanied by a copy of the child's birth certificate or affidavit stating that application for a birth certificate has been made except in cases where the child has been abandoned.

#### **Section 17**—Notice of Petition; Form of Service; Waiver.

(a) Unless service has been previously waived, notice of pendency of the adoption proceeding shall be served by the petitioner on:

(1) Any person, agency, or institution whose consent or relinquishment is required by Section 7, unless service has been previously waived;

- (2) The legally appointed custodian or guardian of the adoptee;
- (3) The spouse of any petitioner who has not joined in the petition;
- (4) The spouse of the adoptee;
- (5) The surviving parent or parents of a deceased parent of the adoptee;
- (6) Any person known to the petitioners as having physical custody, excluding licensed foster care or other private licensed agencies or having visitation rights with the adoptee under an existing court order;
- (7) The agency or individual authorized to investigate the adoption under Section 19(c);
- (8) Any other person designated by the court;
- (9) Department of Human Resources; and
- (10) The father and putative father of the adoptee if made known by the mother or otherwise known by the court.

(b) The notice shall specifically state that the person served must respond to the petitioner within thirty (30) days if he or she intends to contest the adoption. A copy of the petition for adoption shall be delivered to those individuals or agencies in subsections (a)(2) through (a)(10).

(c) Service of the notice shall be made in the following manner:

(1) Service of process shall be made in accordance with the Alabama Rules of Civil Procedure except as otherwise provided by the Alabama Rules of Juvenile Procedure. If the identity or whereabouts of the parent is unknown, or if the one parent fails or refuses to disclose the identity or whereabouts of the other parent, the court shall then issue an order providing for service by publication, by posting, or by any other substituted service.

(2) As to the agency or individual referred to in subsections (a)(7) and (a)(9) above, notice shall be by certified mail.

(3) As to any other person for whom notice is required under subsection (a) of this Section, service by certified mail, return receipt requested, shall be sufficient. If such service cannot be completed after two attempts, the court shall issue an order providing for service by publication, by posting, or by any other substituted service.

(d) The notice required by this section may be waived in writing by the person entitled to receive notice.



(e) Proof of service of the notice on all persons for whom notice is required by this section must be filed with the court before the adjudicational hearing, provided in Section 24.

### **Section 18—Custody Pending Final Decree.**

Once a petitioner has received the adoptee into his or her home for the purposes of adoption and a petition for adoption has been filed, an interlocutory decree shall be entered delegating to the petitioner (1) custody, except custody shall be retained by the Department of Human Resources or the licensed child placing agency which held custody at the time of the placement until the entry of the final decree and (2) the responsibility for the care, maintenance, and support of the adoptee, including any necessary medical or surgical treatment, pending further order of the court.

### **Section 19—Investigation.**

(a) A pre-placement investigation shall be made to determine the suitability of each petitioner and the home in which the adoptee will be placed. The investigation shall include a criminal background investigation and any other circumstances which might be relevant to the placement of an adoptee with the petitioners. A copy of the pre-placement investigation shall be filed with the court when the petition for adoption is filed.

(b) An individual or couple may initiate a pre-placement investigation by request directly through the Department of Human Resources or a licensed child placing agency or by filing a request with the Probate Court. The court may appoint any agency or individual qualified under subsection (d) to perform the pre-placement investigation. Upon completion of the investigation, a copy of the report shall be sent to the petitioners. The report is to be filed with the court at the time of the filing of the petition for adoption.

(c) Unless a preplacement investigation has been performed within twenty-four (24) months of the petition or an investigation is dispensed with by court order for good cause shown on the record, no decree for the adoption of any adoptee shall be entered until a full post-placement investigation ordered by the court has been made concerning:

(1) The suitability of each petitioner, and his, her, or their home for the adoptee;

(2) Why the natural parents, if living, desire to be relieved of the care, support and guardianship of such minor;

(3) Whether the natural parents have abandoned such minor or are otherwise unsuited to have its custody;

(4) Any orders, judgements, or decrees affecting the adoptee or any children of the petitioner;

(5) Any property owned by the adoptee;

(6) The medical histories, both physical and mental, of the adoptee and the biological parents. This history shall be provided to the petitioner in writing before the decree is entered;

(7) Criminal background investigations;

(8) The costs and expenses connected with the adoption; and

(9) Any other circumstances which may be relevant to the placement of the adoptee with the petitioners.

(d) (1) A pre-placement investigation or a post-placement investigation must be performed by one of the following:

(a) The Department of Human Resources;

(b) A licensed child placing agency;

(c) An individual or agency licensed by the Department to perform investigations; or

(d) An individual appointed by the court who is a social worker licensed by the State Board of Social Work Examiners or a Social Worker II or above who is under the State Merit System who is also certified by the State Board of Social Work Examiners for private independent practice in the social casework specialty, as provided for in Code of Alabama 1975, Section 34-30-3.

(2) Notwithstanding subsection (d)(1), the Court on its own motion may order the post placement investigation be performed by an agency or individual other than the agency placing the adoptee, when the Court has cause to believe the investigation is insufficient.

(e) In every adoption proceeding, after a child has been placed in the home, in the post placement investigation an investigator must observe the adoptee and interview the petitioner in their home as soon as possible after notice of the placement but in any event within forty-five (45) days after the placement.

(f) The investigator shall complete and file his or her written report with the court within sixty (60) days from receipt of notice of the proceeding and shall deliver a copy of the report to the petitioner's attorney or to each petitioner if he or she is appearing pro se. The investigation shall include a verification of all allegations of the petition. The report shall include sufficient facts for the court to determine whether there has been compliance with consent or

relinquishment provisions of this act. The post placement investigation shall include all of the information enumerated within subsections (c) (1-9) that was not obtained in the preplacement investigation required under subsection (a).

(g) Upon a showing of a good cause and after notice to the petitioners, the court may grant extensions of time to the investigator to file his or her investigation.

(h) Notwithstanding this section no investigations shall be required for those adoptions under Sections 27 and 28.

(i) When the investigation has been conducted, the investigatory report shall not be conclusive but may be considered along with other evidence.

### **Section 20—Removal of Adoptee from County.**

After the petitioner has received the adoptee into his or her home, the adoptee shall not be removed from the county in which the petitioner resides until the final decree has been issued for a period of longer than fifteen (15) consecutive days unless notice is given to the investigating agency or person.

### **Section 21—Related Proceedings.**

If, at any time during the pendency of the adoption proceeding, it is determined that any other custody action concerning the adoptee is pending in the courts of this state or any other state or country, any party to the adoption proceeding, or the court on its own motion, shall move to stay such adoption proceeding until a determination has been made by an appropriate court with jurisdiction pursuant to the provisions of the Uniform Child Custody Jurisdiction Act (UCCJA) or the Parental Kidnapping Prevention Act (PKPA).

**Section 22—Attorney Participation and Appointment of Attorney for the Adoptee or Other Party.**

(a) In making adoption arrangements, potential adopting parents and birth parents may obtain counsel to provide legal advice and assistance.

(b) Upon the motion of any party, or upon the court's own motion, before or after the filing of petition for adoption the court may appoint a guardian ad litem for the adoptee, or for any incompetent or minor who is a party to the proceeding or who would be a party to the proceeding. In the event of a contested adoption, a guardian ad litem shall be appointed. The fees of a guardian ad litem shall be assessed as court costs.

### **Section 23—Fees and Charges.**

(a) No person, organization, group, agency or any legal entity may accept any fee whatsoever for bringing the adopting parent or

parents together with the adoptee or the natural parents. A violation of this section shall be punished under Section 33 of this Code.

(b) Prior to payment, the petitioners must file with the court a full accounting of all charges for expenses, fees or services they or persons acting on their behalf will be paying relating to the adoption. Payment may be made only with court approval except that fees may be placed in an escrow account prior to court approval. The court may not refuse to approve a fee for documented services on the sole basis that a child has not been placed. The court shall approve all reasonable fees and expenses unless determined by the court to be unreasonable based upon specific written findings of fact.

(c) The petitioner must file a sworn statement that is a full accounting of all disbursements paid in the adoption.

(d) Under penalty of perjury, the adoptive parents and the parent or parents surrendering the minor for adoption shall, prior to the entry of the final adoption order, sign affidavits stating that no moneys or other things of value have been paid or received for giving the minor up for adoption. In addition to any penalties for perjury, the payment or receipt of money as referred to herein shall be punished as set forth in Section 33.

#### **Section 24—Contested Hearing.**

(a) Whenever a motion contesting the adoption is filed, the court shall set the matter for a contested hearing to determine:

(1) Whether the best interests of the adoptee will be served by the adoption;

(2) Whether the adoptee is a person capable of being adopted by the petitioner in accordance with the requirements of this Act;

(3) Whether an actual or implied consent or relinquishment to the adoption is valid; or

(4) Whether a consent or relinquishment may be withdrawn.

(b) The court shall give notice of the contested hearing by certified mail to all parties who have appeared before the court. The moving party and each petitioner shall be present at the contested hearing. The guardian ad litem shall appear and represent the interests of the adoptee.

(c) The court may continue the hearing from time to time to permit notice to all parties, or to permit further discovery, observation, investigation, or consideration of any fact or circumstances affecting the granting of the adoption petition. The court may order the investigating officer, appointed under Section 19 of this Act, to investigate the allegations set forth in the motion for a contested

hearing or the whereabouts of any person entitled to notice of the proceeding.

(d) After hearing evidence at a contested hearing, the court shall dismiss the adoption proceeding if the court finds:

- (1) That the adoption is not in the best interests of the adoptee;
  - (2) That a petitioner is not capable of adopting the adoptee;
  - (3) That a necessary consent cannot be obtained or is invalid;
- or

(4) That a necessary consent may be withdrawn. Otherwise the court shall deny the motion of the contesting party.

(e) On motion of either party or of the court, a contested adoption hearing may be transferred to the court having jurisdiction over juvenile matters.

(f) All references to the names of the parties in the proceedings shall be by initial only.

(g) Where the contested hearing is held in the Probate Court the judge may, upon completion of the contested hearing, immediately proceed with the dispositional hearing as provided in Section 25.

### **Section 25—Final Decree; Dispositional Hearing.**

(a) When the pre-placement investigation has been completed and approved or the investigation has been waived for good cause shown, the petition for adoption shall be set for a dispositional hearing as soon as possible or no later than ninety (90) days after the filing of the petition. When there has not been a pre-placement investigation or the investigation has not been waived for good cause shown or when the adoptee is a special needs child, the petition for adoption shall be set for a dispositional hearing as soon as possible or no later than one hundred and twenty (120) days after the filing of the petition. Upon good cause shown, the court may extend the time for the dispositional hearing and entry of the final decree.

(b) At the dispositional hearing, the court shall grant a final decree of adoption if it finds on clear and convincing evidence that:

(1) The adoptee has been in the actual physical custody of the petitioners for a period of sixty (60) days, unless for good cause shown, this requirement is waived by the court;

(2) All necessary consents, relinquishments, terminations or waivers have been obtained and, if appropriate, have been filed with the court;

(3) Service of the notice of pendency of the adoption proceeding has been made or dispensed with as to all persons entitled to receive notice under Section 17;

(4) All contests brought under Section 24 of this Act have been resolved in favor of the petitioner;

(5) That each petitioner is a suitable adopting parent and desires to establish a parent and child relationship between himself or herself and the adoptee;

(6) That the best interests of the adoptee are served by the adoption; and

(7) All other requirements of this Act have been met.

(c) The court shall enter its finding in a written decree which shall also include the new name of the adoptee, and shall not include any other name by which the adoptee has been known or the names of the natural or presumed parents. The final decree shall further order that from the date of the decree, the adoptee shall be the child of the petitioners, and that the adoptee shall be accorded the status set forth in Section 29 of this Act.

(d) A final decree of adoption may not be collaterally attacked, except in cases of fraud or where the adoptee has been kidnapped, after the expiration of one (1) year from the entry of the final decree and after all appeals, if any.

### **Section 26—Appeals.**

(a) Appeals from any final decree of adoption shall be taken to the Alabama Court of Civil Appeals and filed within fourteen (14) days from the final decree.

(b) An appeal from any final order or decree rendered under this Act shall have priority in all courts and shall have precedence over all other matters, except for other matters which have been given priority by specific statutory provision or rule of court. The trial court may enter further orders concerning the custody of the adoptee pending appeal.

(c) If an order, judgment, or decree rendered under this Act is appealed, the party who files the appeal shall cause notice of the appeal to be transmitted to all persons entitled to receive notice pursuant to Section 17, except for persons for whom consent or relinquishment has been implied under Section 9 or whose consent or relinquishment is not required under Section 10. Such notice of appeal shall set forth the pendency of the appeal and the right of interested parties to be heard. The notice shall not identify by name the party filing such appeal, unless the appellant is unrepresented,

but shall specify the identity of the court in which the appeal is pending, the docket number of the petition, the general nature of the appeal, and the name, address and telephone number of the attorney who has filed the petition. The caption of an appeal shall show only the initials of the adoptee's birthname. Only the initials of the natural parents and the petitioner shall be indicated in all pleadings and briefs.

**Section 27—Stepparent Adoptions.**

Any person may adopt his or her spouse's child according to the provisions of this Act, except that:

(a) Before the filing of the petition for adoption, the adoptee must have resided for a period of one (1) year with the petitioner, unless this filing provision is waived by the court for good cause shown;

(b) No investigation under Section 19 shall occur unless otherwise directed by the court, and

(c) No report of fees and charges under Section 23 shall be made unless ordered by the court.

**Section 28—Adoption by Other Relatives.**

A grandfather, a grandmother, great grandfather, great grandmother, great uncle, great aunt, a brother, or a half-brother, a sister, a half-sister, an aunt or an uncle of the first degree and their respective spouses, if any may adopt a minor grandchild, a minor brother, a minor half-brother, a minor sister, a minor half-sister, a minor nephew, a minor niece, a minor greatgrand child, a minor great niece or a minor great nephew, according to the provisions of this Act, except that:

(a) Before the filing of the petition for adoption, the adoptee must have resided for a period of one (1) year with the petitioner, unless this filing provision is waived by the court for good cause shown;

(b) No investigation under Section 19 shall occur unless otherwise directed by the court; and

(c) No report of fees and charges under Section 23 shall be made unless ordered by the court.

**Section 29—Name and Status of Adoptee.**

(a) The adoptee shall take the name designated by the petitioner. After adoption, the adoptee shall be treated as the natural child of the adopting parent or parents and shall have all rights and be subject to all of the duties arising from that relation, including the right of inheritance.

(b) Upon the final decree of adoption, the natural parents of the adoptee, except for a natural parent who is the spouse of the adopting parent are relieved of all parental responsibility for the adoptee and will have no parental rights over the adoptee.

### **Section 29.1 Grandparent Visitation.**

Post-adoption visitation rights for the natural grandparents of the adoptee may be granted when the adoptee is adopted by a stepparent, a grandfather, a grandmother, a brother, a half-brother, a sister, a half-sister, an aunt or an uncle and their respective spouses, if any. Such visitation rights may be maintained or granted at the discretion of the court at anytime prior to or after the final order of adoption is entered upon petition by the natural grandparents, if it is in the best interest of the child.

### **Section 30—Confidentiality of Records, Hearing; Parties.**

(a) After the petition is filed and prior to the entry of the final decree, the records in adoption proceedings shall be open to inspection only by the petitioner or his or her attorney, the investigator appointed under Section 19, any attorney appointed for the adoptee under Section 22, and any attorney retained by or appointed to represent the adoptee. Such records shall be open to other persons only upon order of court for good cause shown.

(b) All hearings in adoption proceedings shall be confidential and shall be held in closed court without admittance of any person other than interested parties and their counsel, except with leave of court.

(c) After the final decree of adoption has been entered, all papers, pleadings, and other documents pertaining to the adoption shall be sealed, kept as a permanent record of the court, and withheld from inspection except as otherwise provided in this section. No person shall have access to such records except upon order of the court in which the decree of adoption was entered for good cause shown. Identifying information should not be given except with the consent of the parties in interest.

(d) When the Court issues the adoption order, all licensed agencies or individuals shall send a sealed information summary sheet and the non-identifying information referred to in (g) in a separate summary sheet to the State Department of Human Resources. The following information shall be included:

1. birthname and adoptive name;
2. date and place of birth of person adopted, except in the case of abandonment;



3. circumstances under which the child came to be placed for adoption;

4. physical and mental condition of the person adopted, insofar as this can be determined by the aid of competent medical authority;

5. name and last known address of natural parents, dates of birth and social security numbers, if known;

6. age of the natural parents at birth;

7. nationality, ethnic background, race, and religious preference of the natural parents;

8. educational level of the natural parents;

9. pre-adoptive brother/sister relationships;

10. whether the identity and location of the natural father is known or ascertainable.

(e) The State Department of Human Resources and the investigating agency's adoption records must be kept for a minimum term of seventy-five (75) years. If a licensed child placing agency ceases to operate in Alabama, all adoption records of the agency, including those of the child, the natural family and the adoptive family, shall be transferred to the Department of Human Resources.

(f) All files of the investigating office or agency appointed by the court under Section 19 shall be confidential and shall be withheld from inspection except upon order of the court for good cause shown.

(g) Notwithstanding subsection (f) of this Section, the State Department of Human Resources or the licensed investigating agency appointed by the court pursuant to Section 19(b) and 19(c), shall furnish, upon request, to the petitioners, natural parents or an adoptee nineteen (19) years of age or older, non-identifying information which shall be limited to the following:

(1) Health and medical histories of the adoptee's natural parents;

(2) The health and medical history of the adoptee;

(3) The adoptee's general family background, including ancestral information, without name references or geographical designations;

(4) Physical descriptions; and

(5) The length of time the adoptee was in the care and custody of one other than the petitioner.

(6) Circumstances under which child comes to be placed for adoption.

(h) Notwithstanding subsection (f) if either the natural mother or the natural or presumed father have given consent in writing under oath to disclosure of identifying information, the State Department of Human Resources or a licensed child placing agency shall release such identifying information including a copy of the birth certificate as it relates to the consenting parent to an adult adoptee when that adoptee reaches the age of nineteen (19).

(i) If the court finds that any person has a compelling need for nonidentifying information not otherwise available under subsection (e) of this Section which only can be obtained through contact with the adoptee, the adoptee's parents, an alleged or presumed father of the adoptee, or the adoptee's adoptive parents, the court shall direct the agency or a mutually agreed upon intermediary, to furnish such information or to establish contact with the adoptee, the adoptee's natural parents, the alleged or presumed father of the adoptee, or the adoptive parents of the adoptee in order to obtain the information needed without disclosure of identifying information to or about the applicant. Said information then shall be filed with the court and released to the applicant within the discretion of the court. However, the identity and whereabouts of the person or persons contacted shall remain confidential.

(j) Notwithstanding any subsection of this section to the contrary, when an adult adoptee reaches the age of nineteen, the adoptee may petition the court for the disclosure of identifying information if a natural or presumed parent has not previously given consent under subsection (h). The court shall direct an intermediary to contact the natural parents to determine if the natural parents will consent to the release of their identity. If the natural parents consent to the release of their identity the court shall so direct. If the natural parents are deceased, cannot be found or do not consent to the release of the information then the court shall weigh the interest and rights of all of the parties and determine if the identifying information should be released without the consent of the natural parents. Moreover, if the court releases the identifying information without the consent of the natural parents, the court may restrict the distribution and use of that information and may restrict or prohibit contact between the parties as the court determines to be fair and equitable.

### **Section 31—Birth Certificates.**

(a) Within ten (10) days of the final decree being entered the judge or the clerk of the court shall send a copy of the final order to the Department of Human Resources and shall send a certificate of the final order of adoption to the state registrar of vital statistics of the state board of health upon the form supplied by the state registrar for that purpose.

(b) Upon receipt of copy of any final order of adoption the state registrar of vital statistics shall cause to be made a new record of the birth in the new name and with the name or names of the adopting parent or parents as contained in the final decree. The state registrar shall then cause to be sealed and filed the original certificate of birth with the decree of the court.

(c) After the new birth certificate has been issued, the original birth certificate and the evidence of adoption are not subject to inspection except upon order of the court for good cause shown.

### **Section 32—Crime to Place Children for Adoption.**

Only a parent, a parent of a deceased parent, or a relative of the degree of relationship specified in Section 28, the Department of Human Resources or a licensed child placing agency, or an agency approved by the Department of Human Resources may place a minor for adoption. No person or entity other than the Department of Human Resources or a licensed child placing agency shall engage in the business of placing minors for adoption. Any person or entity making more than two unrelated placements of minors for adoption within the preceding twelve month period shall be deemed to be in the business of placing minors for adoption. Any other person who places a minor for adoption is guilty, upon the first conviction, of a Class A misdemeanor and upon subsequent convictions is guilty of a Class C felony. This Section does not intend to make it unlawful for any person not engaged in the business of placing minors for adoption to give advice and assistance to a natural parent in an adoption. In making adoption arrangements, potential adopting parents and birth parents are entitled to the advice and assistance of legal counsel. Surrogate motherhood is not intended to be covered by this section.

**Section 33—Payments to Parent for Placing Minor for Adoption; Maternity Expenses; Receipt of Financial Benefits by Father.**

(a) It shall be a Class A misdemeanor for any person or agency to offer to pay money or anything of value, to a parent for the placement for adoption, for the consent to an adoption, or for cooperation in the completion of an adoption of his or her minor. It shall be a Class C felony for any person or agency to pay money or anything of value to a parent for the placement of a child for adoption, for the consent to an adoption, or for cooperation in the completion of an adoption of his or her minor. This Section does not make it unlawful to pay the maternity-connected medical or hospital and necessary living expenses of the mother preceding and during pregnancy-related incapacity as an act of charity, as long as the payment is not contingent upon placement of the minor for

adoption, consent to the adoption, or cooperation in the completion of the adoption.

(b) It shall be a Class C felony for any person or agency to receive any money or other thing of value for placing, assisting or arranging a minor placement. This section is not intended to prohibit legitimate charges for medical, legal, prenatal or other professional services.

(c) Surrogate motherhood is not intended to be covered by this section.

**Section 34—Bringing Child into State for Adoption Purposes.**

Children may be brought into Alabama for purposes of adoption as provided in Section 38-7-15 of the Code of Alabama except that investigations shall be made as provided in Section 19(c).

**Section 35—Advertisement as to Adoption by Persons, Organizations, etc., Not Licensed by Department of Human Resources.**

It shall be unlawful for any person or persons, organizations, corporation, partnership, hospital, association, or any agency to advertise verbally, through print, electronic media, or otherwise that they will:

(1) adopt children; or assist in the adoption of children in violation of this Act;

(2) place or assist in the placement of children in foster homes, group homes, or institutions in violation of this Act; or

(3) pay or offer money or anything of value to the parents of a child in violation of Section 33 of this act. Any violation of this subsection shall be punished as a Class A Misdemeanor.

**Section 36—Laws Amended. Alabama Code Sections 40-18-15 and 26-10-4.1 are amended and reenacted as follows:**

§40-18-15. Deductions for individuals generally.

(a) In computing net income, there shall be allowed as deductions:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

(2) All interest paid or accrued within the taxable year on indebtedness, but, in the case of a nonresident, the proportion of

such interest which the amount of gross income from sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama;

(3) The following taxes paid or accrued within the taxable year:

a. Income taxes, Federal Insurance Contribution Act taxes, taxes on self-employment income and estate and gift taxes imposed by authority of the United States or any possession of the United States; provided, that the amount of such taxes apportioned by a nonresident taxpayer shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income from sources within and without the state of Alabama.

b. State and local, and foreign, occupational license taxes and contributions to state unemployment funds.

c. State and local, and foreign, real property taxes.

d. State and local personal property taxes.

e. State and local general sales taxes.

f. The windfall profits tax imposed by 26 USCA 4986.

g. The taxes described in paragraphs c, d, e and f shall be deductible only to the extent that such taxes are deductible for federal income tax purposes under 26 USCA 164 (relating to taxes) and in the case of nonresidents, these taxes shall be apportioned to Alabama by the ratio that the amount of adjusted gross income received from sources within Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

h. In addition, there shall be allowed as a deduction state and local, and foreign taxes, except income taxes, and taxes imposed by authority of the United States or any possession of the United States, which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in 26 USCA 212 (relating to expenses for the production of income).

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but, in the case of a taxpayer other than a resident of the state, only as to such transactions within the state;

(6) Losses sustained during the taxable year of property not connected with the trade or business, but in the case of a taxpayer

other than a resident of the state only of property within the state, if arising from fires, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise. A loss described in this paragraph shall be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeds \$100.00. For purposes of the \$100.00 limitation of the preceding sentence, a husband and wife using the rate table in subdivision (2) of section 40-18-5 for the taxable year in which the loss is allowed as a deduction shall be treated as one individual. No loss shall be allowed if, at the time of filing the return, such loss has been claimed on the federal estate tax return;

(7) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama income tax law;

(8) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence;

(9) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably proportioned between the lessor and the lessee;

(10) Charitable contributions to the extent allowed for federal income tax purposes under 26 USCA 170 (relating to charitable contributions and gifts), but not subsection (i) thereof (relating to nonitemized charitable deductions), as in effect on January 1, 1982. In the case of a nonresident individual, this deduction shall be limited to the amount determined by multiplying the amount described in the previous sentence by a fraction, the numerator of which is the taxpayer's adjusted gross income from all sources within the state of Alabama and the denominator is the taxpayer's adjusted gross income from all sources.

(11) In the case of a resident individual, the deduction allowed such individual for federal income tax purposes by 26 USCA 219 (relating to retirement savings) as amended from time to time;

(12) The deduction allowed for federal income tax purposes by 26 USCA 404 and 26 USCA 405(c) (relating to qualified pension, profit sharing, stock bonus, annuity or bond purchase plans), as amended from time to time, provided, however, that contributions

to such plans on behalf of individuals who are employees within the meaning of 26 USCA 401(c)(1), as in effect from time to time (relating to self-employed individuals), shall be deductible only if such individuals are residents;

(13) For each individual income taxpayer, medical and dental expenses, including expense for medicine and drugs and amounts paid for accident and health insurance, paid during the taxable year 1982 and each year thereafter, to the same extent and subject to the same limitations when applied to the taxpayer's adjusted gross income for state tax purposes, as prescribed under the laws of the United States in force and effect January 1, 1982, in relation to income taxes due the United States;

(14) For each individual income taxpayer, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation or maintenance of property held for the production of income;

(15) Any expense not exceeding \$1,000.00 actually incurred during the taxable year in constructing on his property a family radioactive fallout shelter, as approved and certified by the state department of civil defense, and any amount not exceeding \$1,000.00 which he contributed during the taxable year toward the construction of a community radioactive fallout shelter; and

(16) a. An amount equal to the aggregate of the net operating loss carryovers to the taxable year, plus the net operating loss carrybacks to such year. For purposes of this subdivision, the term "net operating loss deduction" means the deduction allowed by this paragraph.

b. 1. A net operating loss for any taxable year ending after December 31, 1974, and before January 1, 1976, shall be a net operating loss carryback to the tax year preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1975, and before January 1, 1977, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss.

2. A net operating loss for any taxable year ending after December 31, 1976 and before January 1, 1985, shall be a net operating loss carryover to each of the five taxable years following the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1984, shall be a net operating loss carryover to each of the 15 years following the taxable year of such loss.

c. The entire amount of the net operating loss for any taxable year (hereinafter referred to as the "loss year") shall be carried to the earliest of the taxable years to which, by reason of paragraph b, such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed:

1. With the modifications specified in paragraph f other than subparagraphs 1 and 3 thereof; and

2. By determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

d. Any taxpayer entitled to a carryback period under paragraph b may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1984. Such election shall be made in such a manner as may be prescribed by the commissioner, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year.

e. For purposes of this subdivision, the term 'net operating loss' means, for any taxable year ending after December 31, 1974, the excess of the deductions allowed by this chapter over the gross income. Such excess shall be computed with the modifications specified in paragraph f of this subdivision.

f. The modifications referred to in this subdivision are as follows:

1. No net operating loss deduction shall be allowed.

2. No deduction shall be allowed under sections 40-18-19(a)(6) and (7), and 40-18-19(b) (relating to personal exemptions and credit for dependents). No deductions in lieu of any such deduction shall be allowed.

3. The deductions allowable by this chapter which are not attributable to a taxpayer's trade or business, including the federal individual income tax deduction, shall be allowed only to the extent of the amount of the gross income not derived from such trade or business. For purposes of the preceding sentence:

- (i) Any gain or loss from the sale or other disposition of property used in the trade or business of a character which is subject to the



allowance for depreciation provided in subdivisions (8) and (9) of subsection (a), or real property used in the trade or business shall be treated as attributable to the trade or business;

(ii) The modifications specified in subparagraphs 1 and 3 shall be taken into account;

(iii) Any deduction allowable under section 40-18-15(a)(6) (relating to casualty losses) shall not be taken into account; and

(iv) Any deduction allowed under section 40-18-15(a)(12) to the extent attributable to contributions which are made on behalf of an individual who is an employee within the meaning of said 26 USC 401(c)(1) (relating to self-employed individuals) shall not be treated as attributable to the trade or business of such individual.

4. The optional standard deduction allowed under section 40-18-15(b)(1) shall be treated as a deduction allowed by this chapter. For purposes of paragraph e:

(i) The deduction provided by the preceding sentence shall be in lieu of any itemized deductions of the taxpayer, and

(ii) Such sentence shall not apply to an individual who elects to itemize deductions.

g. In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

h. In the case of a taxable year beginning in 1974 and ending in 1975:

1. In lieu of the amount specified in paragraph e of this subdivision, the net operating loss for such year shall be that portion of the net operating loss for each year, computed without regard to this subparagraph, which the number of days in the loss year after December 31, 1974, bears to the total number of days in such year.

2. For purposes of the second sentence of subparagraph 3 of paragraph f of this subdivision, the taxable income for such year shall be that portion of the net income for such year, computed without regard to this subparagraph, which the number of days in such year before January 1, 1975, bears to the total number of days in such year.

(17) There shall be allowed resident taxpayers a deduction from the taxpayer's adjusted gross income for state income tax purposes of the total cost of installation for conversion from gas or electricity to wood as the primary energy source for heating their individual

domestic homes for the taxable year during which such conversion was completed.

(18) For individual resident taxpayers, alimony and separate maintenance payments, the amount deductible to be the same as the amount deductible for federal income tax purposes under 26 USCA 215 (relating to alimony payments), as in effect January 1, 1982.

(19) Moving expenses paid or incurred during the taxable year to the same extent that such expenses are deductible, except as provided herein, for federal income tax purposes under 26 USCA 217 (relating to moving expenses), as in effect January 1, 1982. The term "new principal place of work," as such term is made relevant hereto by the federal statute, means and includes only places of work located within the state of Alabama, and the deduction for moving expenses provided for herein shall be allowable only in the event that such "new principal place of work" is located within the state of Alabama.

(20) Any expense not exceeding \$35,000 actually incurred during the taxable year in removing from his property any architectural or transportation barriers to handicapped persons with nonambulatory and semiambulatory disabilities; provided, however, that any improvements resulting from such expense shall not be eligible to be capitalized for depreciation.

(21) Notwithstanding subdivision (1), beginning with all tax years or periods beginning after December 31, 1987, the deduction for expenses of travel, entertainment, and meals shall be determined in accordance with 26 U.S.C. § 274.

(22) For resident individual taxpayers, the reasonable medical and legal expenses paid or incurred by the taxpayer in connection with the adoption of a minor. For purposes of this subdivision, "medical expenses" shall include any medical and hospital expenses of the adoptee and the adoptee's biological mother which are incident to the adoptee's birth and subsequent medical care and which, in the case of the adoptee, are paid or incurred before the petition is granted.

(b) (1) In lieu of the deductions allowable to individual taxpayers, as provided in subdivisions (2), (3), (5), (6), (10), (13), (14), and (17) of subsection (a) of this section, for the taxable years beginning on and after January 1, 1982, at the election of the taxpayer required to use the rate schedule in subdivision (1) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$2,000.00, whichever is the lesser, and at the election of the taxpayer required to use the rate schedule in subdivision (2) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$4,000.00, whichever is the lesser and, in addition to said deduction,

a deduction for the amount of federal income tax paid or accrued within the taxable year; provided, that in the case of a nonresident taxpayer the deduction for the optional standard deduction shall be an amount equal to the optional standard deduction that would be allowable if the taxpayer were a resident taxpayer, multiplied by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama; and the amount of federal income tax so deductible to Alabama shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

(2) If separate returns are filed by husband and wife and one spouse elects to claim the deduction allowed herein, the election to claim such deduction will be denied unless the other spouse also elects to claim the deduction allowed herein.

(c) The term "adjusted gross income," as used in this section, shall mean the gross income as defined by section 40-18-14, less:

(1) The deductions allowed in this section which are attributable to a trade or business carried on by the taxpayer if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(2) Travel expenses, including the entire amount expended for meals and lodging, while away from home in the pursuit of a trade or business;

(3) The deductions allowed by this section, other than expenses of travel, meals and lodging while away from home, which consist of expenses paid or incurred by the taxpayer in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer;

(4) The deductions, other than those provided in subdivisions (1), (5) and (6), of subsection (a) allowed by this section and which are attributable to property held for the production of rents or royalties;

(5) The deductions, other than those provided in subdivision (1) of this subsection, for depreciation and depletion, allowed by subdivisions (8) and (9) of subsection (a) of this section to a life tenant of property or to an income beneficiary of property held in trust;

(6) The deduction, other than those provided in subdivision (1) of this subsection, allowed by section 40-18-8 as losses from the sale or exchange of property; and

(7) The deduction allowed by subdivision (21) of subsection (a) of this section (relating to adoption expenses).

(d) In the case of a nonresident individual, the deductions allowed in subdivisions (1), (4), (5), (7), (8), (9) and (19) of subsection (a) of this section shall be allowed only if and to the extent that they are connected with income arising from a source within the state of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the state of Alabama shall be determined under rules and regulations prescribed by the department of revenue.

**Section 26-10-4.1.** Fee for investigation services involving adoption; disposition of moneys received.

(a) The State Department of Human Resources shall charge and collect a fee in the amount of \$300.00 for investigation services they perform in cases involving adoption, provided, however, that in those adoption proceedings in which an investigation is specifically not required by statute because the petitioner is a stepfather, stepmother or closely related relative, no fee shall be charged for investigation services. This fee shall not apply to investigation services for cases in which a child was placed for adoption by the State Department of Human Resources, in cases in which a child was placed for adoption as a result of or pursuant to a court order in which parental rights in the child were terminated or in cases in which the investigative services were performed by a licensed child-placing agency.

The Department of Human Resources may waive this fee in the case of an indigent and for other good cause shown.

(b) All investigation services fees received pursuant to this section shall be received by the state Department of Human Resources and shall be deposited in the state treasury to the credit of the state general fund.

**Section 37.** Evidence.

The Rules of Civil Procedure and the Rules of Evidence apply to the Probate Court in Adoption Proceedings to the extent they apply under Ala. Code § 12-13-12.

**Section 38.** Prior Laws Repealed.

The following law or portions thereof are repealed by this Act:

Ala. Code §§ 26-10-1 through 26-10-10, §§ 43-4-1 through 43-4-4 (1975) as amended except § 26-10-4.1.

**Section 39.** Application to Existing Adoptions.

Final orders of adoptions entered prior to the effective date of this Act, remain in effect on the date this Act becomes effective,

even though the statute under which the adoption was made may be repealed or modified by this Act. Those adoptions continue in effect as they existed prior to this Act except that proceedings after final orders of adoption previously entered will be governed under this Act.

**Section 40. Severability.**

If any provision of this Act or the applicability thereof is held to be invalid, the remaining provisions of this Act shall not be affected.

**Section 41. Effective Date.**

This act shall take effect on January 1, 1991 except that section 26-10-4.1, as amended shall become effective on June 1, 1990.

Approved April 19, 1990.

Time: 3:40 P.M.

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Act No. 90-555

H. 180—Rep. Rogers

**AN ACT**

To amend Section 15-18-111, Code of Alabama 1975, so as to further define the word inmate for purposes of the supervised intensive restitution program.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 15-18-111, Code of Alabama 1975, is hereby amended to read as follows:

“§15-18-111.

“As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) DEPARTMENT. The department of corrections.

“(2) COMMISSIONER. The commissioner of the department of corrections.

“(3) STATE CORRECTIONAL INSTITUTION. Any correctional institution under the jurisdiction of the department.

“(4) INMATE. A person who has served at least 90 days in any jail or penal facility, either male or female, who has been convicted of a felony and sentenced to a term of confinement and treatment in a state correctional institution under the jurisdiction of the department.

“(5) PROGRAM. Supervised intensive restitution (SIR) program.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:41 P.M.

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Act No. 90-556

H. 240—Rep. Harper

### AN ACT

To amend Act No. 89-79 of the Regular Session, 1989, as it amended Act No. 88-947 of the 1st Extraordinary Session, 1988, as it amended Act No. 87-761 of the 1987 Regular Legislative Session as it amended Section 4 of Act No. 86-645 1st Extraordinary Session, 1986, concerning the repayment of funds transferred from Fund No. 305735 by said Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding any provision of law to the contrary, Act 89-79 as passed by the Legislature in the 1989 Regular Session as it amended Act 88-947 of the 1988 First Extraordinary Session as it amended Act No. 87-761 of the 1987 Regular Session as it amended Section 4 of Act No. 86-645 as passed the Legislature in the First Extraordinary Session of 1986 is hereby amended to read as follows:

“Section 4. A sum equivalent to eight million dollars (\$8,000,000) is hereby appropriated into Fund No. 305735 from the State General Fund to be paid in quarterly allotments beginning October 1, 1987 for the fiscal year ending September 30, 1988. A sum equivalent to seven million dollars (\$7,000,000) is hereby appropriated into Fund No. 305735 from the State General Fund to be paid in quarterly allotments beginning October 1, 1991 for the fiscal year ending September 30, 1992.”

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 20, 1990

Time: 3:42 P.M.

Act No. 90-557

H. 660—Reps. Curry, Venable, Zoghby  
and Buskey (JE)

### AN ACT

To provide for the disposition of records and forms after elections; to provide for the return to the board of registrars the list of registered voters; to provide for voter reidentification forms at the polling places; and to provide for the distribution of the remaining forms.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For purposes of this act, unless the context plainly indicates otherwise, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **CLERK'S POLL LIST.** The list of voters that is written by a clerk at the polling place pursuant to sections 11-46-39 or 17-8-34, Code of Alabama 1975.

(2) **LIST OF REGISTERED VOTERS.** The list of registered voters, sometimes called the list of qualified voters, that is provided for each polling place by the city clerk in municipal elections and by the judge of probate in all other elections.

(3) **STATEMENT OF CANVAS OR CERTIFICATE OF RESULT.** The vote totals recorded at the polling places on forms provided for that purpose in accordance with sections 17-13-6, 17-9-33, 17-16-32, 11-46-116 and 11-46-123, Code of Alabama 1975.

(4) **VOTERS' POLL LIST.** The numbered list that is signed by the voter at the polling place.

(5) **VOTER REIDENTIFICATION FORM.** A form that is approved by the Alabama director of voter registration for use at the polling place pursuant to section 17-4-186, Code of Alabama 1975.

**Section 2.** After the close of the polls in all primary, special, general and municipal elections held in the state, the records and forms produced at the polling places shall be returned as follows:

(1) The list of registered voters and the voter reidentification forms shall be sealed in an envelope addressed to the board of

registrars and the inspectors and any poll watchers present shall sign across the seal. The board of registrars shall hold the list of registered voters as a public record while using it to update their voter histories in accordance with article 8, chapter 4, Title 17, Code of Alabama 1975. The list shall then be returned to the city clerk in municipal elections and the judge of probate in all other elections.

(2) One copy of the affidavits of challenged voters and witnesses shall be placed in an envelope addressed to the district attorney as required by section 17-12-4, Code of Alabama 1975.

(3) The voters' poll list, the clerk's poll list and all records required by law to be sealed in a voting machine or sealed in a ballot box shall be sealed in an envelope labeled "RECORDS OF ELECTION" and the inspectors and any poll watchers present shall sign across the seal. The "records of election" envelope shall be sealed in the ballot box or voting machine and remain there during the period of time for the initiation of election contest. The "records of election" envelope shall be removed and returned to the city clerk in municipal elections and the sheriff in all other elections to be retained in accordance with state and federal law.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:43 P.M.

Act No. 90-558

H. 794—Reps. McMillan and Penry

#### AN ACT

To amend Section 40-12-10, Code of Alabama 1975, to provide for the appointment of the License Inspector in each county by the County Commission, to provide for the duties of the License Inspector, to provide for the collection of penalties and citation fees on delinquent licenses and distribution of such penalties and citation fees to the County General Fund, to provide for the appointment of Deputies to the License Inspector and to provide for the salary of the License Inspector and his Deputies and expenses of his office to be paid by the County Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-12-10, Code of Alabama 1975, is hereby amended to read as follows:

"Section 40-12-10

(a) The county commission of each county is hereby authorized and empowered to appoint a license inspector.



(b) It shall be the duty of the license inspector to scrutinize the records and stubs kept in the office of the probate judge and also to examine the license records of each city or town located in the county or counties of which he has been appointed license inspector; and, if it shall be reported to any license inspector or come to his knowledge that any person, persons, firms or corporations have failed or refused to take out a license for a business or occupation for which a license is required by the state or have failed or refused to take out a license for operating any motor vehicle or trailer for which a license is required by law, the license inspector shall thereupon cite such delinquent to appear before the license inspector at the courthouse of the county in which such citation is issued and to show cause why the license or privilege tax required by law has not been paid and, at the same time, shall file with the probate judge of the county a copy of such citation showing service on the delinquent.

(c) If the license inspector shall discover any motor vehicle being operated without a proper or legal license, he shall cite the operator of the motor vehicle; and, in filing copy of such citation with the probate judge, he shall show on such citation the particular motor vehicle operated without legal license, as well as the operator thereof.

(d) The probate judge must in all cases, in addition to the other penalties required to be collected by him, collect the citation fee, if any, before issuing any license; and, in case of a motor vehicle where a license is taken out in the name of person not cited, the citation fee shall be collected if the citation filed shows the motor number of such vehicle. When any license is due the license inspector shall cause the delinquent to appear before the probate judge of the county and take out the same, but such probate judge shall not have the authority to determine the liability of such delinquent for such license and shall in each case issue a license to the applicant upon the payment by him of the amount or amounts prescribed by this title. If such delinquent shall fail or refuse to take out a license, the license inspector shall institute or cause to be instituted criminal proceedings against such delinquent before any court having jurisdiction of such offense. In case of emergency the license inspector must commence the criminal proceedings in the first place.

(e) All license taxes levied by this title, except as otherwise provided, shall be due and payable as of October 1 of each year and shall be delinquent November 1 thereafter. Where any license issuable by the probate judge or commissioner of licenses shall be delinquent, the same shall be subject to a penalty of 15 percent of the amount of the license, which penalty must be collected by the probate judge or commissioner of licenses when the license is taken out together with interest at six percent from the date of delinquency; provided,

that the penalty for delinquency in payment of motor vehicle licenses shall in no case be less than \$1.50.

(f) It shall be unlawful for any probate judge or other officer to fail to collect such penalties when issuing such license.

(g) The probate judge, in remitting such penalties shall file report with the county commission, comptroller and with the department of revenue showing the amount of such penalties collected, from whom, and for what collected, and he shall remit to the county general fund all penalties collected. The probate judge shall remit to the county general fund all citation fees collected where the citation was served by the license inspector or his deputy.

(h) If a criminal prosecution shall be commenced either by affidavit and warrant, or information or indictment, forty-four percent of the fine or penalty thereafter imposed in the case shall be paid to the county general fund. The remainder shall be paid to the treasury of the state.

(i) The county commission may appoint deputy license inspectors, and the acts of such deputies shall be recognized as the acts of the license inspector.

(j) All citations to delinquents shall be served by any lawful officer or by the license inspector or his deputy for which a fee of \$1.50 for each citation served shall be taxed against the delinquent.

(k) License inspectors shall have the same power to arrest persons violating the revenue laws of the state as is now vested in the sheriffs of the state and shall receive the same fees for such service.

(l) The department of revenue shall keep a record by counties in which, each month, shall be entered the number of licenses issued by the probate judge for each and every business or occupation for which a state license tax is required, and such record may be compared each month with the number of licenses issued by cities and towns for the same business or occupation.

(m) The license inspector shall be required to report to the department of revenue the reason for the failure to collect any licenses due the state which may be evidenced by the comparison of the report of the probate judge and the report made of licenses issued by cities or towns.

(n) It shall be the duty of the county commissions of the several counties to supply the license inspector with necessary citation blanks and other necessary forms to be paid for by the county.

(o) The county commission shall fix and pay the salary of the license inspector and his deputies and the expenses of his office."

**Section 2.** Any individual holding the office of license inspector on the effective date of this act shall not be removed from such office by the county commission until the 1st Monday after the 2nd Tuesday of January, 1991; provided however, the county commission may remove such license inspector at an earlier date with the permission of the Governor.

**Section 3.** The provisions of this act shall not repeal, modify or prohibit any presently existing or future local act or general act of local application affecting the office of license inspector or which establishes any office or position which encompasses the duties of license inspector in any county.

**Section 4.** This act shall take effect immediately upon its passage and approval by the Governor.

Approved April 19, 1990

Time: 2:30 P.M.

Act No. 90-559

H. 663—Reps. Zoghby, Venable, Curry  
and Buskey (JE)

### AN ACT

To amend section 17-9-9, Code of Alabama 1975, relating to the sale and issue of warrants or certificates of indebtedness by the counties to pay for voting machines, so as to remove the maximum six percent interest allowed to be paid and to authorize the interest-bearing warrants or certificates of indebtedness to also be used for voter reidentification programs, equipment for boards of registrars or construction for compliance with handicap regulations for accessibility to polling places.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 17-9-9, Code of Alabama 1975, is hereby amended to read as follows:

“§17-9-9.

“Each county in which voting machines may now or hereafter be authorized or required to be used in the conduct of elections in such county shall have the power from time to time to sell and issue interest-bearing warrants of such county or interest-bearing certificates of indebtedness of such county for the purpose of paying the cost of acquiring or providing voting machines for the conduct of elections in such county, or for providing a voter reidentification program, providing equipment for the county board of registrars or paying for construction for compliance with handicap regulations for accessibility to polling places. Such warrants and certificates may be

in such denomination or denominations, may have such maturity or maturities not exceeding 15 years from their date, may bear interest from their date at an annual rate or rates not exceeding the prevailing rate, payable semiannually, may be payable at such place or places within or without this state, may be sold at such time or times and in such manner, may be executed in such manner, and may contain such terms not in conflict with the provisions of sections 17-9-9 through 17-9-14, all as the county commission of such county may provide in the proceedings wherein the warrants or certificates are authorized to be issued."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:31 P.M.

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Act No. 90-560

H. 736—Rep. Warren

### AN ACT

To provide further for supernumerary circuit clerks status for circuit clerks who were appointed to the remainder of a term; to provide that prior service credit may be purchased for supernumerary status to the beginning of the term; to provide for other terms and termination date of opening such credit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any circuit clerk who attains office by appointment, subsequent to the beginning of the term of office, shall be entitled to purchase prior service credit toward supernumerary status retroactively to the beginning of the term. Such prior service credit shall be made upon the conditions of Section 12-17-144, Code of Alabama 1975, as amended, being fulfilled.

**Section 2.** The provisions of this act shall terminate on December 31, 1994.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:32 P.M.

Act No. 90-561

H. 783—Reps. Campbell, Carothers,  
Johnson (RG), Kvalheim,  
Warren, Clark (J),  
Higginbotham, Hooper,  
Gaston, Haynes, Hill, Curry,  
Knight, Hall, Moon, Colvin,  
Marks, Payne, Poole and  
Beasley

## AN ACT

To amend Section 19-3-1, Code of Alabama, 1975 in order to exempt from attachment, execution, or seizure, the operation of certain bankruptcy or insolvency laws or under any legal process whatsoever, the right of a debtor to pension and retirement funds or disability and death benefits accruing under any retirement plan, certain employee benefit plans, or certain other arrangements, and to provide that such exemption does not extend to benefits under any such plan to certain dependents of a participant, to certain plan loans, and certain other arrangements in conformity with federal income tax law and the federal Employee Retirement Income Security Act of 1974, as amended.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 19-3-1 of the Code of Alabama (1975) is hereby amended to read as follows:

(a) It is lawful for any person or owner of property to convey or devise any of his real estate or personal property to another in trust to receive and pay the profits or income, and, at the grantor's or devisor's election, so much of the principal as may be required, in the trustee's opinion, for the support, maintenance and education of any child, grandchild or other relation by blood or marriage, with remainder as the grantor or devisor shall provide, during a period of time not exceeding the limit fixed by law as to perpetuities; and the property so conveyed and the income or profits therefrom shall not be liable for or subject to be seized or taken in any manner for the debt of such child, grandchild or other relation, whether the same is contracted or incurred before or after the creation of such trust.

(b) Qualified trust under the Internal Revenue Code.

(i) **PROHIBITION ON ASSIGNMENT:** Any benefits provided under a plan which includes a trust that constitutes a "qualified trust" may not be assigned or alienated, voluntarily or involuntarily, and shall be exempt from the operation of any bankruptcy or insolvency laws under 11 U.S.C. § 522 (b), as from time to time amended. This clause (i) may not be waived by a participant or beneficiary of any qualified plant.

(ii) **EXCEPTION FOR PLAN LOANS:** The securing of a loan made to a participant or beneficiary of such a plan shall not be treated as an assignment or alienation under the preceding clause (i) if such loan is secured by the participant's accrued nonforfeitable benefit under the plan and is exempt from the tax imposed by section 4975 of the Code by reason of section 4975(d)(1) of the Code.

(iii) **EXCEPTION FOR QUALIFIED DOMESTIC RELATIONS ORDERS:** Clause (i) above shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, as such term is defined in section 414(p) of the Code, except that clause (i) above shall not apply if the order is determined to be a "qualified domestic relations order" in accordance with section 414(p) of the Code. However, no domestic relations order shall be deemed a qualified domestic relations order except in accordance with the procedures for such determination set forth in such section 414(p) and the related provisions of the Employee Retirement Income Security Act of 1974, as from time to time amended.

(iv) **INTERPRETATION:** The provisions of this section shall be interpreted so as to provide restrictions on alienation and assignment to the extent, and only to the extent, the same are required for a trust within the definition of "qualified trust" herein to be a "qualified trust" under the applicable provisions of the Code, notwithstanding any attempted assignment or alienation in violation of section 401(a) or other applicable provisions of the Code. It is intended that this section will constitute "a restriction of the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable non-bankruptcy law" for purposes of section 541(c) (2) of the federal bankruptcy Code, 11 U.S.C. § 541(c)(2), as from time to time amended. This section shall further be construed as a "state spendthrift trust law." It is further intended for this section to provide an exemption from creditors' claims within 11 U.S.C. § 522.

(v) **DEFINITIONS:**

(A) The term "assignment or alienation," and any conjugation thereof, includes any anticipation, assignment (either at law or in equity), alienation, attachment, garnishment, levy, execution, or other legal or equitable process. Moreover, such term includes:

(I) Any arrangement providing for the payment to the employer or other sponsor of such plan of benefits that otherwise would be due the participant under the plan;

(II) Any direct or indirect arrangement (whether revocable or irrevocable) whereby any person acquires from a participant or beneficiary of such plan a right or interest enforceable against the plan

in, or to, all or any part of a plan benefit which is, or may become, payable to the participant or beneficiary;

(III) Any attachment, execution, seizure, or the like, or under any form of legal process whatsoever; and

(IV) The operation of any bankruptcy or insolvency laws under 11 U.S.C. § 522(b) as from time to time amended.

Notwithstanding the foregoing, "assignment and alienation" does not include those items excluded from such definition by Treasury Regulations § 1.401(a)-13(c) (2).

(B) "Code" means the Internal Revenue Code of 1986, as from time to time amended, or as at any time superseded by reenactment, recodification, or adoption of any other similar revenue law. Reference to specific sections of the Code shall include references to their successor sections as a result of renumbering or recodification at any future date.

(C) "Treasury Regulation" means a valid regulation of the United States Department of Treasury codified at Title 26 of the Code of Federal Regulations. References to specific Treasury Regulations include references to amendments and future reenactments or recodifications of such regulations, regardless of how designated.

(D) "Qualified trust" means a "qualified trust" as such term is used in section 401(a) of the Code, and includes any trust that would not be qualified but for this section. A "qualified trust" includes, without limitations, any trust that has received a favorable determination letter from the Internal Revenue Service of the United States Department of Treasury to the effect that such trust is, or will be upon the satisfaction of certain administrative conditions, a "qualified trust" under section 401(a) of the Code. "Qualified trust" also includes:

(I) A "retirement annuity" described in section 404(a) (2) of the Code, including a retirement annuity that would not satisfy the requirements of section 404(a) (2) of the Code but for this section;

(II) An annuity described in section 403(b) of the Code, including an annuity that would not satisfy the requirements of section 403(b) of the Code but for this section;

(III) An individual retirement plan described in section 7701(a) (37) of the Code, including an individual retirement plan that would not satisfy the requirements of section 7701(a) (37) of the Code but for this section;

(IV) A retirement bond described in section 409 of the code, as in effect prior to January 1, 1984, including a retirement bond that

would not satisfy the requirements of section 409 of the Code but for this section;

(V) A governmental plan described in section 414(d) of the Code;

(VI) A church plan described in section 414(e) of the Code; and

(VII) A tax credit employee stock ownership plan described in section 409 of the Code, including a tax credit employee stock ownership plan that would not satisfy the requirements of section 409 of the Code but for this section.

**Section 2.** The provisions of this act shall not apply to the Employees Retirement System of Alabama, Teacher's Retirement System of Alabama, and the Judicial Retirement Fund of Alabama.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** The provisions of this act shall be deemed declarative of existing law, and there shall be no presumption that the enactment of this act effects a change in the previously existing laws of the state of Alabama.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved April 19, 1990.

Time: 2:33 P.M.

Act No. 90-562

H. 264—Reps. Kvalheim and Harper

# AN ACT

To amend Section 40-13-8, Code of Alabama 1975, so as to provide that the excise and privilege tax on coal shall terminate on October 1, 2006, unless extended by the Legislature of the State of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-13-8, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§40-13-8.

“The excise and privilege tax imposed by this article shall terminate on October 1, 2006, unless extended by an act of the Legislature of the State of Alabama.”



**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:34 P.M.

Act No. 90-563

H. 918—Rep. Logan

### AN ACT

Relating to Marion County; providing for the establishment of the Marion County Agriculture and Exhibit Center Authority; providing for the appointment of the members of the authority; providing the powers and duties of such authority; and providing that this act shall become effective upon the adoption of an amendment to the Constitution of Alabama of 1901, authorizing the establishment and maintenance of an agriculture and exhibit center in Marion County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created and established the Marion County Agriculture and Exhibit Center Authority which shall consist of seven members to be appointed as follows: one member shall be appointed by the Marion County Board of Education; one member by the Marion County Commission; one member by the Marion County Cattlemen's Association; one member by the Marion County Extension Service; one member appointed by the state Senator and one member appointed by the House delegation; and one member, who shall serve as director of such authority, shall be appointed by the other six members of the authority. The authority shall be charged with the construction, management, maintenance and control of any structure or facility constructed as a center for promoting cattle, horses and livestock and for agricultural, educational and civic exhibits. Vacancies on said authority shall be filled in the same manner as the original appointments are made. Members of the authority shall serve without compensation. The authority shall hold at least one annual meeting.

**Section 2.** The authority shall be authorized:

(1) To investigate and select an available site for locating the exhibition center, taking into consideration all pertinent factors affecting the suitability of such site;

(2) To acquire by rent or lease agreement or otherwise the necessary facilities and to provide it with necessary equipment, furnishings, landscaping and related facilities, including parking areas and ramps, roadways, sewers, curbs and gutters;

(3) To enter into such contracts and cooperative agreements with the local, state and federal governments, with agencies of such governments, with private individuals, corporations, associations and other organizations as the authority may deem necessary or convenient to carry out the purpose of this act, such contracts and agreements to include leases to private industry;

(4) To accept public or private gifts, grants and donations;

(5) To acquire property by purchase, lease or gift;

(6) To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own and to transfer, assign, sell, convey or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

(7) To employ personnel as may be necessary to accomplish the purposes of this act. The personnel employed by the authority shall serve at the pleasure of the authority. The authority shall fix the compensation of the personnel and such compensation shall be paid from any funds of the authority. The authority shall designate the duties of the personnel;

(8) To issue and sell at any time and from time to time its revenue bonds for the purpose of providing funds to acquire, enlarge, improve, equip and maintain its property, and for the payment of obligations incurred for such purposes;

(9) To make such contracts in the issuance of its bonds as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the authority from the investment of the proceeds of the sale of such bonds or from any other source whatsoever;

(10) To make such rules and regulations as the authority may deem necessary and desirable to provide for the operation, management and control of the facility; and

(11) To perform such other acts necessary or incidental to the accomplishment of the purposes of this act, whether or not specifically authorized in this act, and not otherwise prohibited by law.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** The provisions of this act shall become effective upon the adoption of an amendment to the Constitution of Alabama

of 1901, authorizing the establishment and maintenance of an agriculture and exhibit center in Marion County.

Approved April 19, 1990

Time: 2:35 P.M.

Act No. 90-564

H. 301—Reps. Holley and Parker

### AN ACT

To require the agencies of state government to develop a model program for the recycling of wastes generated by the operation of those agencies. To require a survey of existing recycling efforts by state agencies and the development of a model recycling program by the Department of Environmental Management. To further require all state agencies to implement their own recycling programs, based on the model program, within one year. To authorize Employee Awards in each state agency, which may be financed from the proceeds generated from the sale of recyclable materials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Findings. The legislature finds that:

(a) The state faces a looming crises in solid waste management related to the ever-increasing volumes of waste intended for disposal;

(b) The solid wastes presently disposed of in the state contain substantial volumes of materials which are capable of recovery and reuse if recycling programs are developed and implemented within the state;

(c) The failure to recover and recycle materials from solid waste results in the unnecessary waste and depletion of natural resources;

(d) The state government, through its departments and agencies, generates substantial amounts of solid wastes which could be recovered through a coordinated recycling program;

(e) A recycling program by state departments and agencies would serve to demonstrate to local governments and private business the practical benefits of and proper techniques for implementing such a program; and

(f) An effective recycling program within state government should be initiated by an agency with expertise in solid waste management, and such agency should serve as the point of coordination for the state's program.

**Section 2.** Definitions. As used in this act:

(a) "Program for the Management and Marketing of Recyclable Materials" means a formal program administered by state agencies

and/or public school systems for the recycling of recyclable materials collected by state agencies and/or public school systems pursuant to a program for waste reduction and the collection of recyclable materials.

(b) "Program for Waste Reduction and the Collection of Recyclable Materials" means a formal program implemented by state agencies and/or public school systems for the reduction of solid wastes generated by the operation of such agencies and/or public school systems including the collection in lieu of disposal of recyclable materials.

(c) "Public School Systems" means all the state's universities, all elementary, secondary and post-secondary schools, schools for the deaf and blind, mental retardation and youth services school district which receive state revenues.

(d) "Recyclable Materials" means materials generated by the operation of state agencies which would otherwise be processed as solid wastes, but which possess physical and economic characteristics that allow them to be recovered, separated and reprocessed for sale or reuse (other than use as a fuel).

(e) "Recycling" means the recovery, separation and reprocessing for sale or reuse of materials which would otherwise be processed as solid wastes.

(f) "Solid Wastes" shall have the same meaning as that term is defined in Section 22-27-2 of the Code of Alabama 1975.

(g) "State Agencies" means all departments and agencies of state government. City and county governments are specifically excluded from the provisions of this act to the extent of activities not specifically described above.

(h) "Nonprofit Organizations" means all agencies or organizations whose income or profit is not distributed to their members, directors or officers, excluding religious organizations.

**Section 3.** State Government Program for Waste Reduction and the Collection of Recyclable Wastes. The Department of Environmental Management shall assess the status of recycling efforts undertaken by the state for solid waste generated by the operations of state agencies and public school systems and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the state. The programs shall include, without limitation, recycling of office papers, cardboard, yard waste and other materials produced by the state for which recycling markets exist or may be developed.

(a) Waste reduction and recycling plan. Within 180 days of the effective date of this act, the Department of Environmental Management shall develop and implement a model program for the reduction and recycling of the solid wastes generated by its own operations and which addresses the requirements of subsections (b) and (c) below. Within one year of the effective date of this act, each department and agency of the state and the public school systems shall implement a program of waste reduction and recycling based on the model program of the Department of Environmental Management. Following the implementation of a program, each agency shall report annually on the implementation and results of its program. Such reports shall be on forms provided by the Department of Environmental Management and a copy shall be provided annually to the Department of Environmental Management on a due date established by the Department of Environmental Management.

(b) Each program for waste reduction and the collection of recyclable materials shall establish and implement a source separation and collection program for recyclable materials produced as a result of state agency and/or public school system operations, including, at a minimum, high grade paper and corrugated paper. Each program shall include procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers or collectors of recyclable materials. Each state agency and public school system shall appoint a recycling coordinator and conduct educational programs for its employees explaining the recycling program.

(c) Each program for waste reduction and the collection of recyclable materials shall include a waste reduction provision intended to reduce the amount of waste materials generated in the course of state agency or public school system operations prior to recycling. This phase of the program shall be designed and implemented to achieve the maximum feasible reduction of waste generated as a result of state agency or public school system operations.

(d) State agencies and public school systems are encouraged to coordinate their efforts to assure the maximum benefit of recycling efforts or to increase access to markets for recyclable materials. To this end, state agencies and public school systems may jointly enter into contracts with one another or third parties for the management of recyclable materials as provided herein.

**Section 4. Program for the Management and Marketing of Recyclable Materials.** State agencies and public school systems are hereby authorized to enter into contracts of three years or less duration with private and nonprofit organizations for the purpose of managing recyclable materials, subject to the approval of the surplus

property division of the Alabama department of economic and community affairs. Recyclable materials produced by state agencies and public school systems may be sold to public purchasers or may be donated to nonprofit organizations as long as the materials are substantially recycled. Sales and donations of recyclable materials shall be conducted through or approved by the surplus property division of the Alabama department of economic and community affairs in accordance with rules and regulations to be adopted by the Alabama department of economic and community affairs governing the sale or donation of recyclable materials.

**Section 5. Proceeds From the Sale of Recycled Materials.**

(a) All proceeds from the sale of recyclable materials generated by the state agencies shall be deposited into the state treasury to the credit of the operations fund of the agency which generated the recyclable materials.

(b) Employer Awards in an amount not to exceed twenty-five dollars (\$25.00) per fiscal year for each employee of the state agency are hereby authorized but not required. It is the intent of the legislature that the amount of such awards not be considered cumulative and the maximum amount expended in any one fiscal year for any one employee shall not exceed twenty-five dollars (\$25.00). These awards may be paid for from the proceeds of the sale of recyclable materials and/or other departmental funds, provided such expenditures are budgeted for.

(1) Each state agency's Employee Awards shall be administered by a duly elected board of employees in that agency, with the advice and consent of the agency head, and shall be subject to periodic audits by the examiners of public accounts.

(2) Employee Awards shall include plaques or like awards acquired in accordance with the state's competitive bid laws. These plaques or like awards are to express recognition or appreciation for retirement, longevity, outstanding performance or other accomplishments which in the opinion of the board and the agency head merit recognition.

(b) All proceeds from the sale of recycled materials generated by the public school systems shall be credited to the public school system generating the recyclable materials.

**Section 6. Severability.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:36 P.M.

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Act No. 90-565

S. 492—Senator Hale

### AN ACT

To establish a physical therapist assistant program at Wallace State Community College in Hanceville, Alabama, and to provide funding for the program.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There shall be established a physical therapist assistant program at Wallace State Community College in Hanceville, Alabama. Funding for the program shall be allotted to the college based on distribution of appropriations of the Alabama Special Educational Trust Fund in the same manner being distributed to all colleges of the Alabama college system and in accordance with funding for all major allied health courses.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 3:45 P.M.

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Act No. 90-566

S. 30—Senator Goodwin

### AN ACT

To exempt from all state, county or local ad valorem taxes and from all state, county or local sales and use taxes all property owned and used by the Selma-Dallas County Historic Preservation Society and the Valegrande Community Center.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All property owned by the Selma-Dallas County Historic Preservation Society and the Valegrande Community Center and used by said organizations is hereby exempted from all state, county or local ad valorem taxation and all state, county or local sales and use taxation.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:39 P.M.

Act No. 90-567

S. 93—Senators Bedsole, Windom  
and Figures

### AN ACT

To designate the *Scaphella junonia johnstoneae* as the Official Shell of the State of Alabama.

WHEREAS, in appropriate concern over the gradual disappearance of our natural wildlife and sealife, several of the states, including Florida, Georgia, South Carolina and Texas, have officially adopted certain shells to represent their states; and

WHEREAS, in the State of Alabama, and unique to our waters, is the beautiful *Scaphella junonia johnstoneae*, which is an offshore inhabitant and thereby protected from over-collecting and the ravages of pollution; and

WHEREAS, the *Scaphella junonia johnstoneae*, commonly called Johnstone's Junonia, was described by Dr. William J. Clench, a distinguished scientist at Harvard University, and was named in honor of Kathleen Yerger Johnstone, a noted Amateur Conchologist who has greatly promoted and popularized seashells through her lectures and her well-known books on shells; and

WHEREAS, a native of Mobile, Alabama, Mrs. Johnstone received her B.A. degree from Mississippi University for Women; she also attended Columbia University and Denishawn School of Dance, and is a former dancing instructor in Tennessee; and

WHEREAS, she is a recipient of the Distinguished Citizens Award, is a member of Colonial Dames in Alabama, and is listed in Who's Who Among American Women, Director of British and American Writers, Foremost Women in Communication and Contemporary Authors; and

WHEREAS, among Mrs. Johnstone's publishing credits are her books "Sea Treasure" and "Collecting Seashells", as well as contributions to Holiday and Antiques magazines; and

WHEREAS, in keeping with Alabama's adoption of a state flower, bird and other official emblems, it is also desirable that our state designate an official shell that is unique to our waters and one which has been appropriately associated with the state through its naming for a native daughter, Kathleen Yerger Johnstone of Mobile; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The *Scaphella junonia johnstoneae* is hereby designated as the official shell of the State of Alabama.



**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:40 P.M.

Act No. 90-568

S. 219—Senator Dial

### AN ACT

To amend Sections 37-4-87 and 37-4-96 of the Code of Alabama 1975, relating to penalties for gas and hazardous liquid pipeline safety violations, so as to provide further for such penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 37-4-87 and 37-4-96 of the Code of Alabama 1975, are hereby amended to read as follows:

“§37-4-87.

“(a) Any person who violates any provision of this article or of any regulation issued hereunder shall be subject to a civil penalty of not to exceed \$10,000.00 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$500,000.00 for any related series of violations.

“(b) Any civil penalty may be comprised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of Alabama to the person charged, or may be recovered in a civil action brought by the commission in the circuit court of any county in which a violation exists.

“§37-4-96.

“(a) Any person who violates any provision of the article or any regulation issued hereunder shall be subject to a civil penalty not to exceed \$10,000.00 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$500,000.00 for any related series of violations.

“(b) In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of Alabama to the person charged, or may be recovered in a civil action brought by the commission in the circuit court of any county in which a violation exists.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:41 P.M.

Act No. 90-569

S. 292—Senators Lipscomb and Bailey

### AN ACT

To amend Sections 41-15-1 through 41-15-6 and 41-15-8, 41-15-9, 41-15-11, Code of Alabama 1975, relating to the State Insurance Fund, so as to provide increased discounts for all insured, establish the office of risk manager, provide further for surveys of insured property, and to repeal Section 41-15-7, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-15-1, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-1.

There shall be a fund, to be known as the state insurance fund, carried by the state treasurer for the purpose of insuring direct physical loss on buildings and contents for the perils as may be determined by the Finance Director in which title in whole or in part is vested in the state of Alabama or any of its agencies or institutions or in which funds provided by the state have been used for the purchase of the land, construction of the building, purchase or maintenance of any equipment, machinery, furniture, fixtures or supplies in such buildings and public school buildings together with the contents of all such buildings; provided, that this section shall neither repeal nor in any manner affect the provisions of any local act of the legislature or any general act of local application authorizing city or county boards of education or district boards of education of

independent school districts to insure school buildings and property either in the state insurance fund or in an insurance company, whichever in the opinion of such board provides the best coverage for such school buildings and property.

**Section 2.** Section 41-15-2, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-2.

The department of finance is hereby constituted and designated as the agency through which this chapter shall be administered, and the director of said department is empowered with such authority as may be necessary to carry out its purposes.

The director of said department, with the approval of the governor, may appoint a risk manager, as administrator of the state insurance fund, who is familiar with insurance customs and practices and is otherwise qualified by actual experience in the underwriting of risks and adjustment of losses, to assist the director of said department in carrying out the purpose of this chapter. The said risk manager, shall install and keep an accurate system of accounting and statistical records and shall adjust losses, make appraisals of insured properties for insurance purposes, when necessary, and shall handle or supervise the handling of all other details incident to carrying out the provisions of this chapter. The risk manager, shall furnish to the department of finance each month a statement showing in detail the accumulated income and disbursements during the fiscal year, together with a financial statement showing assets and liabilities of the state insurance fund. At the close of each fiscal year the risk manager, shall furnish to the said department an annual statement of the affairs of the state insurance fund. The unearned net premium computed on a pro rata basis shall be considered as a liability and carried as a reserve. Said risk manager, shall file with the said department a bond in the penal sum of \$10,000.00, executed by a surety company authorized to do business in this state, conditioned upon faithful performance of his duties, payable to the state of Alabama.

**Section 3.** Section 41-15-3, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-3.

The director of finance may make or cause to be made a survey and appraisal of all property, to assist in the determination of the amount of insurance to be carried on the several properties and to classify all exposures or property.

**Section 4.** Section 41-15-4, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-4.

(a) All covered property shall be insured for no more than its replacement cost and shall be insured for no less than 80 percent of its actual cash value. Replacement cost coverage may be provided with an amount of insurance as agreed upon by the proper insuring authority and the risk manager based upon a written statement of values. Replacement cost shall be the cost to repair or replace property with comparable materials of like kind and quality by generally accepted construction methods or technology to serve the same function as the lost or damaged property. Actual Cash Value shall be replacement cost less depreciation. No payment for a loss shall exceed the limit of the policy.

(b) The officer or person having charge by law of insuring any public building, contents, machinery, and equipment shall annually certify to the department of finance the description and the value of all buildings, contents, machinery and equipment under his supervision or control on forms prescribed by the department for the purpose of showing the character of the risk and determining the rate of premium. No coverage shall be issued unless such certificate is on file in the office of the department of finance or the director has waived, in writing, the filing of the same.

(c) Buildings, contents, machinery and equipment owned by any county, city, or school district and used for school purposes or under control of a board of education may be insured under the provisions of this chapter.

(d) The department of finance may cause to be surveyed, annually, if practicable, all public property coming within the provisions of this chapter, and the officer or person in charge of the public property shall receive a copy of such report. A survey shall be an examination of property for physical discrepancies, construction characteristics, usage or occupancy.

**Section 5.** Section 41-15-5, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-5.

“The net premium charged shall be based on the current commercial rate with not less than a 40 percent discount. The risk manager with the approval of the director of finance may purchase such reinsurance as may in the opinion of the risk manager, be necessary for the proper distribution of the risk. The risk manager shall collect such reinsurance upon any loss sustained and pay the same into the state insurance fund.

**Section 6.** Section 41-15-6, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-6.

All premiums shall be paid to the department of finance, not later than 60 days from the effective date of such insurance or renewal thereof, by the treasurer or executive officer of the agency affected. Such funds shall be promptly transmitted to the state treasurer, who shall place the same to the credit of the state insurance fund. Upon failure or refusal of any officer to comply with the provisions of this section with regard to the payment of premiums, the state comptroller shall, when requested by the director of the department of finance, deduct from any funds due or which may become due the delinquent amount of unpaid premiums and pay the same to the state insurance fund.

**Section 7.** Section 41-15-7, Code of Alabama 1975, is hereby repealed.

“Section 41-15-7.

**Section 8.** Section 41-15-8, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-8.

In the event a disagreement arises between the department of finance and any person or persons in charge of any insured property as to its replacement cost or actual cash value or the amount payable under the claim for loss or the proper premium rate or rates, the matter in disagreement shall be determined by a third person to be agreed upon by the director of finance on the one hand and the person or persons disagreeing with him on the other. In case of inability to agree on such third person, the governor shall appoint a third person to determine the question, and his decision thereon shall be binding on all parties concerned.”

**Section 9.** Section 41-15-9, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-9.

“The director of finance is authorized to prescribe insurance coverages, forms of policies, proofs of losses and other forms; to define terms; make rules and regulations; to provide additional experience and schedule rating factors and appropriate deductibles from losses as may be necessary or expedient for the proper administration of the provisions of this chapter.

**Section 10.** Section 41-15-11, Code of Alabama 1975, is hereby amended to read as follows:

“Section 41-15-11.

No part of the funds provided for in section 41-15-10 shall be used to increase the salary of any state employee. Only the salary of the designated risk manager, stenographic secretary, inspector, clerical force and such other employees and expenses as may be necessary for the efficient administration of the provisions of this chapter shall be paid from these funds. Such expenditures shall be limited to that amount appropriated by the legislature.

All employees as provided in this section shall be subject to the Merit System Act.

**Section 11.** The provisions of this Act are severable and, should any provision be declared unconstitutional, such declaration shall not affect the remaining portions.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed and specifically section 41-15-7, Code of Alabama, 1975 is repealed.

**Section 13.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:42 P.M.

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Act No. 90-570

S. 396—Senator Drinkard

## AN ACT

Relating to the Wallace-Folsom Prepaid College Tuition Trust Fund program established by Sections 16-33C-1 through 16-33C-8, Code of Alabama 1975; to amend Sections 16-33C-1, 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-6 and 16-33C-8, Code of Alabama 1975, so as to: provide that the said trust fund shall constitute an integral part of the State of Alabama and shall perform governmental functions thereof, so that the investment earnings of the said trust fund shall not be subject to federal income taxation; to alter the composition of the board of trustees; provide certain additional powers, duties and responsibilities for the state treasurer and the trust fund board of trustees; to provide for the administrative costs of the prepaid tuition program; and to provide further for legal investments for the trust fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 16-33C-1, 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-6 and 16-33C-8, Code of Alabama 1975, are hereby amended to read as follows:

“§16-33C-1.

“The Legislature of Alabama hereby finds and determines that the advancement and improvement of higher education in the State of Alabama is a proper governmental function and purpose of the State of Alabama. The Legislature also finds that the creation of a trust fund, as an agency and instrumentality of the State of Alabama to assist qualified students or their families in financing a portion of the costs of attending state colleges and universities in the State of Alabama will increase the number of qualified students who will seek to attend such state colleges and universities, which will be of benefit to the said state colleges and universities, and will therefore advance and improve higher education in the State of Alabama. It is therefore the legislative intent of this act to establish an educational trust fund as an agency and instrumentality of the State of Alabama to assist qualified students to pay in advance the tuition costs of attending state colleges and universities and thereby to encourage such qualified students to attend state colleges and universities in the State of Alabama. In establishing the trust fund, it is further the intent of the legislature to encourage timely financial planning for higher education by the creation of prepaid tuition contracts and to encourage employer participation in such planning, and to provide assistance and incentives for the purchase of prepaid tuition contracts for the benefit of the children of the people of this state.”

“§16-33C-3.

“The following terms shall have the meanings ascribed to them, unless the context clearly indicates otherwise:

“(a) **PREPAID TUITION CONTRACT.** A contract entered into by the board of trustees of the trust fund and a purchaser pursuant to this chapter.

“(b) **TRUST FUND.** The Wallace-Folsom prepaid college tuition trust fund created as an agency and instrumentality of the State of Alabama pursuant to section 16-33C-6.

“(c) **PURCHASER.** A person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract entered into pursuant to this chapter.

“(d) **QUALIFIED BENEFICIARY.** A resident of this state at the time a purchaser enters into a prepaid tuition contract on behalf

of the resident or the minor child of a noncustodial parent who is a resident of this state.

“(e) STATE COLLEGE, UNIVERSITY. Any state supported public two or four year college or university.

“(f) TUITION. The quarter, semester or term charges imposed by a state college or university and all mandatory fees required as a condition of enrollment by all students.

“(g) BOARD. The board of trustees of the Wallace-Folsom prepaid college tuition trust fund as provided in section 16-33C-4.

“(h) LEGISLATURE. The Legislature of Alabama.

“(i) OUTSIDE TUITION FEE. The amount of tuition and/or fees payable to a college or university outside the state or independent institutions upon the election by a beneficiary to attend such institution. This fee shall generally be the amount of the average public tuition costs and/or fees of state institutions of higher learning as determined by the board of trustees on an annual basis.”

“§16-33C-4.

“(a) The board of trustees of the Wallace-Folsom prepaid college tuition trust fund shall consist of ten members as follows:

“The lieutenant governor, the executive director of the Alabama commission on higher education (ACHE), a representative of the council of college and university presidents, the treasurer of the state of Alabama, the chancellor of the Alabama department of postsecondary education, each of whom shall serve ex officio; one person appointed by the speaker of the house of representatives, and one person appointed by the lieutenant governor, for initial terms of office of two years each; one person appointed by the treasurer for an initial term of office of three years; and two persons appointed by the governor for an initial term of office of four years. Successors to the appointed members shall serve for terms of office of four years and shall be eligible for reappointment, and shall serve until a successor is appointed. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term.

“(b) Each trustee appointed shall possess knowledge, skill, and experience in business or financial matters commensurate with the duties and responsibilities of the trust fund; provided, however, that no person holding a full-time office or position of employment with the state, any county or municipality in the state, any educational institution, or any instrumentality, agency or subdivision of the foregoing, shall be eligible for appointment to the board.



“(c) Members of the board of trustees shall serve without compensation, but shall be reimbursed for each day’s official duties of the board at the same per diem and travel rate as is paid the employees of the state.

“(d) The state treasurer shall be the chairman and presiding officer of the board, and the state treasurer may appoint such other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the trust fund.

“§16-33C-5.

“In addition to the powers granted by any other provision of this chapter, the board of trustees shall have, as agents of the State of Alabama, the powers necessary or convenient to carry out the purposes and provisions of this chapter, the purposes and objectives of the trust fund and the powers delegated by any other law of the state or any executive order thereof including, but not limited to the following express powers:

“(a) To adopt and amend bylaws;

“(b) To adopt such rules and regulations as are necessary to implement the provisions of this chapter either with or without compliance with the state administrative procedures statutes (sections 41-22-1 through 41-22-27, or any similar successor statute);

“(c) To invest any funds of the trust fund in any instrument, obligation, security, or property that constitutes legal investments for public funds in the state as described in Section 16-33C-6(d) and to name and use depositories for its investments and holdings;

“(d) To execute contracts and other necessary instruments;

“(e) To impose reasonable requirements for residency for qualified beneficiaries at the time of purchase of the contract. However, each state college or university shall establish its own residency for matriculation;

“(f) To impose reasonable limits on the number of contract participants in the trust fund at any given period of time;

“(g) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of private persons for administrative and technical assistance in carrying out the responsibilities of the trust fund. Such contracts may be awarded for a period not to exceed a total of five years, instead of one year;

“(h) To solicit and accept gifts, including bequeathments or other testamentary gifts made by will, trust or other disposition, grants, loans, and other aids from any personal source or to participate in

any other way in any federal, state, or local governmental programs in carrying out the purposes of this chapter;

“(i) To define the terms and conditions under which payments may be withdrawn from the trust fund and impose reasonable charges for such withdrawal;

“(j) To impose reasonable time limits on the use of the tuition benefits provided by the program;

“(k) To provide for the receipt of contributions to the trust fund in lump sums or installment payments;

“(l) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this chapter.

“§16-33C-6.

“(a) There is hereby created as an agency and instrumentality of the State of Alabama, to be administered by the board of trustees until and unless the Legislature shall determine otherwise, the Wallace-Folsom prepaid college tuition trust fund (hereinafter referred to as “the trust fund” or “the fund”).

“(b) The official location of the trust fund shall be the state treasurer’s office, and the facilities of the state treasurer shall be used and employed in the administration of the fund including but without limitation thereto, the keeping of records, the management of bank accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.

“(c) Payments received by the board from purchasers on behalf of qualified beneficiaries or from any other source, public or private, shall be placed in the trust fund, and the fund may be divided into separate accounts as may be determined by the board.

“(d) Assets of the trust fund shall constitute public funds of the state and may be invested in any instrument, obligation, security or property that constitutes legal investments for the investment of public funds in the state, including legal investments for the state treasurer, the Alabama Trust Fund and Heritage Trust Fund that are deemed most appropriate by the board and may be pooled for investment purposes with any other investment of the state which is eligible for asset pooling.

“(e) The trust fund, through the treasurer, is hereby specifically authorized to receive and deposit into the trust fund any gift of any nature, real or personal property, made by any individual by testamentary disposition, including, without limitation, any specific gift or bequeath made by will, trust or other disposition.

“(f) The board shall obtain appropriate actuarial assistance to establish, maintain, and certify a fund sufficient to defray the obligation of the trust fund, and shall annually evaluate or cause to be evaluated, the actuarial soundness of the trust fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, it may adjust the terms of subsequent prepaid tuition contracts to ensure such soundness.

“(g) In that the trust fund shall constitute an agency of the state, its property and income shall be exempt from all taxation by the state and by all of its political subdivisions.

“(h) In order to provide funds to enable the trust to pay all amounts that shall be due under prepaid tuition contracts, there is hereby irrevocably pledged to that purpose and hereby appropriated from the trust fund such moneys as shall be necessary to pay all amounts that shall be due under prepaid tuition contracts at any time. In order to carry out the said appropriation and pledge, in each fiscal year the board shall, as provided in paragraph (f) above, determine the amount of the future obligations of the trust fund under prepaid tuition contracts by any appropriate actuarial method. After that determination has been made, all moneys on deposit in the trust fund up to and including the amount of such future obligations shall remain on deposit in the trust fund and shall be subject to the aforesaid appropriation and pledge.

“(i) There is hereby created a separate account within the treasurer’s office to be known as the Prepaid Affordable College Tuition Administrative Account for the purposes of implementing and maintaining prepaid college tuition accounts pursuant to this act. There is hereby appropriated from the fees collected and interest earned from the Prepaid Affordable College Tuition Program, for the fiscal years 1989-90 and 1990-91 such amounts as are deemed necessary by the treasurer to fund the costs of such prepaid tuition programs.

“§16-33C-8.

“In addition to any other requirements of this chapter, the board of trustees shall:

“(a) Make available summary information on the financial condition of the trust fund to all purchasers of prepaid tuition contracts;

“(b) Prepare, or cause to be prepared, an annual accounting of the trust fund and transmit a copy of same to the governor, the lieutenant governor and the speaker of the house of representatives; and

“(c) Make all necessary and appropriate arrangements with state colleges and universities in order to fulfill its obligations under the

prepaid tuition contracts, which arrangements shall include the payment by the trust fund of current applicable tuition and fee charges on behalf of a qualified beneficiary to the college or university. It is further provided that if, at any time, there should be on deposit in the trust fund monies that shall be in excess of the actuarially determined obligations of the trust fund as determined by the board, then such excess funds shall be deposited into the general fund of the state."

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:43 P.M.

Act No. 90-571

S. 270—Senators Bennett, Campbell, Parsons,  
Corbett, Bedsole, Rice, Dixon,  
Langford, Bedford, Covington,  
Cabaniss and Foshee

#### AN ACT

Providing for a certain supplemental appropriation from the general fund to the office of the Director of Voter Registration for the 1989-90 fiscal year to be used for general operations of said office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated from the general fund in the state treasury for the fiscal year ending September 30, 1990, the sum of \$35,000.00 for the general operations of the office of the Director of Voter Registration as established by Act No. 89-649 of the 1989 Regular Session of the Legislature. The appropriation herein made shall be in addition to any and all other funds heretofore or hereafter appropriated to such office.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:44 P.M.

Act No. 90-572

S.J.R. 243—Senator Goodwin

## SENATE JOINT RESOLUTION

## COMMENDING JANA LANE MCDANIEL OF AUBURN UNIVERSITY.

WHEREAS, The Alabama Legislature, in consensus of commendation, notes the many outstanding accomplishments of Jana Lane McDaniel, a senior marketing major at Auburn University where she is a candidate for the B.S. Degree in June 1990; and

WHEREAS, Jana McDaniel, the daughter of Mr. and Mrs. John McDaniel of Bainbridge, Georgia, is a graduate of Bainbridge High School where she was a three-year cheerleader, serving as head cheerleader in her senior year; and

WHEREAS, Jana McDaniel has enjoyed a very successful career at Auburn University where she is an outstanding student, is a member of Chi Omega sorority, a Sigma Alpha Epsilon Little Sister, and was chosen as a "Who's Who" campus leader; and

WHEREAS, Miss McDaniel, in reflection of her outstanding talent and ability, was selected as an Auburn cheerleader in the Spring of 1987 while still a freshman; she continued to cheer throughout her sophomore and junior years, and was elected head cheerleader for the 'Tigers' 1989-90 football and basketball seasons; and

WHEREAS, Jana has cheered for the Auburn University SEC Champions in the Sugar Bowl in 1988 and 1989, and in the Hall of Fame Bowl in 1990; and for the Auburn University women's basketball team at the NCAA Final Four in 1988, 1989 and 1990; and

WHEREAS, she also holds the distinction of having led the Auburn cheerleaders and students in cheering the Tigers to a glorious victory over the University of Alabama during the teams' first meeting ever at Auburn's Jordan-Hare Stadium; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and as an exemplar of the spirit of Auburn, we hereby commend Jana Lane McDaniel and do further direct that she receive a copy of this resolution that she may know of our sincere praise and warm best wishes for every future success in life.

Approved April 19, 1990

Time: 2:45 P.M.

Act No. 90-573

S.J.R. 247—Senators Drinkard, Smith (B),  
Mitchem, Hale, Smith (J),  
Denton and Campbell

### SENATE JOINT RESOLUTION

URGING PRESIDENT GEORGE BUSH TO APPOINT ZACK THOMPSON OF ALABAMA TO FILL THE VACANCY CURRENTLY EXISTING ON THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

WHEREAS, unlike Mississippi, Tennessee, Kentucky and other states in the TVA service area, Alabama has never had representation on the TVA Board of Directors; and

WHEREAS, there are a number of individuals in Alabama with a thorough understanding of the mission of TVA in serving the people of the Tennessee Valley; and

WHEREAS, Alabamians also are fully committed to the Authority's mandate to advance the economic development of the region, and Zack Thompson of our state is thoroughly knowledgeable of both legislation and programs concerning water resource development as well as TVA's activities in the fields of energy, transportation, flood control and conservation; and

WHEREAS, further, of the seven states in the TVA area, power revenue in Alabama is 16% of the total power provided; the book value of TVA property in Alabama is 29% of TVA's total property value; there are three of TVA's hydro dams, two nuclear units and two steam plants located in Alabama; Alabama's power production is 25% of TVA's total power generation; and TVA also has its national fertilizer development center at Muscle Shoals, Alabama, which has developed the technology for 75% of the fertilizer used in the United States today and is the world's leading fertilizer development center; and

WHEREAS, a vacancy on the TVA Board of Directors now exists and, in view of the facts hereinabove enumerated, it is logical, realistic and only equitable that said vacancy should and must be filled with Alabama's first appointment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most respectfully but strongly urge President Bush to appoint Alabamian Zack Thompson to the vacancy on the Board of Directors of the Tennessee Valley Authority and that The Congress, in turn, confirm said appointment.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded forthwith to President Bush for his consideration, with copies also provided for Alabama's Congressional Delegation in Washington, D.C.

Approved April 19, 1990

Time: 2:46 P.M.

Act No. 90-574

S. 110—Senators Denton, Foshee, Bedford,  
Horn, Amari and Bennett

### AN ACT

To amend Section 25-2-12, Code of Alabama, 1975, which provides for the board of appeals for the department of industrial relations, so as to increase the compensation of the members of said board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 25-2-12, Code of Alabama 1975, is hereby amended to read as follows:

“§25-2-12.

“There shall be a board of appeals for the department of industrial relations. The board of appeals shall exercise its own judgment and discretion in all matters entrusted to it, and, to that extent, shall be entirely separate and distinct from and independent of the department of industrial relations, but it shall have offices with the department of industrial relations, and an employee of the department of industrial relations shall act as its clerk. All proper expenses of the board of appeals shall be paid from the appropriations to the department of industrial relations in the same manner as expenses of the department are paid. There shall be three members of the board of appeals, all of whom shall be appointed by the governor, subject to confirmation by the senate, for a term of office of six years or until their successors are appointed; except, that the first appointments of members of the board of appeals shall be for terms of two, four and six years respectively. One member of the board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employers. One member of such board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employees. One member of the board shall represent the interest of the public, shall not be generally classified as a representative of employers or of employees and shall be the chairman of the board of appeals. Before entering upon the discharge

of his duties, each member of the board of appeals shall take the constitutional oath of office. No member of the board of appeals shall be employed by the federal government or the state. Members of the board of appeals shall receive no salary but shall be paid for each day or part thereof necessarily spent in the discharge of their official duties, including travel time, an amount to be agreed upon by the director of industrial relations and the governor, the same not to exceed \$100.00 per day. The sum total to be paid to each member of the board in the first six months of any calendar year shall not exceed \$5,000.00 with a like maximum sum total of \$5,000.00 in the last six months of any calendar year, plus expense allowance as provided in article 2 of chapter 7 of Title 36; except, that when it has been determined by the director of industrial relations that the number of appeals pending before the board of appeals shall require that the board meet and hold hearings on more than 24 days during the first six months or during the last six months of any calendar year the sum total to be paid to each member of the board during such first six months or such last six months of any calendar year shall be increased proportionally as determined by the director but in no event to exceed \$6,000.00 plus travel allowance during either the first six months or the last six months of any calendar year. Members of the board of appeals shall be subject to impeachment as are other state officers. Vacancies for any reason shall be filled by appointment by the governor for the unexpired term, and any appointments made while the senate is not in regular session shall be effective ad interim. No member of the board of appeals shall hear or determine an appeal in any case in which he is a directly interested party. The board of appeals shall not hear or determine any appeal unless each of the three members thereof or their alternates are present. The governor shall immediately, whenever it is shown to his satisfaction that a member of the board of appeals is disqualified for any reason or cannot attend a session of the board of appeals, appoint an alternate or alternates for the member or members so disqualified or absent."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:47 P.M.



Covington, Amari, Manley,  
Cabaniss, Foshee, Langford,  
Goodwin, Hale, Parsons,  
Windom, Smith (J) and  
Denton

## AN ACT

Providing for volunteer fire departments and rescue squad organizations in the state to purchase goods and services offered by the Alabama correctional industries division of the department of corrections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any volunteer fire department and rescue squad organizations operating in this state which have been granted an exemption under the provision of Section 40-18-32, Code of Alabama 1975, or approved by the federal internal revenue service may purchase goods and services offered by the Alabama correctional industries division of the department of corrections.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:48 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 24th day of April, 1990.

McDOWELL LEE  
Secretary of Senate

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Act No. 90-576

S. 81—Senator Foshee

## AN ACT

To further provide for the labeling of certain containers of alcoholic beverages by any manufacturer, importer or wholesaler licensee, required by Section 28-3-187 of the Code of Alabama 1975, as amended, so as to remove any such labeling of containers by certain licensees of fortified wine or vinous liquor, as defined by Section

28-3-1(32), Code of Alabama 1975, which section defines certain alcoholic beverage licensing code terms; to specifically provide that any such licensee shall not be exempted from the payment of any legally owed taxes or charges of the state; and to repeal conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any laws or parts of laws to the contrary notwithstanding, no manufacturer, importer or wholesaler licensee of fortified wine and vinous liquor, as defined by Section 28-3-1(32) of the Code of Alabama 1975, as amended, shall be required to comply with the provisions of Section 28-3-187 of the Code of Alabama 1975, as amended, nor any other provisions of laws, rules or regulations relating to the state labeling of certain containers of alcoholic beverages by such manufacturer, importer or wholesaler licensees.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:49 P.M.

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Act No. 90-577

S. 190—Senators Dial and Bedford

# AN ACT

To amend §32-6-49.19, Code of Alabama, 1975, to provide that school bus operators' license be \$15.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** §32-6-49.19, Code of Alabama, 1975, is hereby amended to read as follows:

“§32-6-49.19. (Effective October 1, 1990) License fees; term of licenses.

“For the purpose of defraying the cost of issuing commercial drivers' license, the probate judge or license commissioner shall collect for each Class A commercial driver license the sum of \$45.00; the sum of \$35.00 for each Class B commercial driver license; the sum of \$15.00 for each Class C commercial driver license, provided,

however the fee for any school bus driver license shall be \$15.00 and such license shall be restricted to the operation of a school bus and non-commercial vehicle. These licenses shall be issued for a period of four years.”

**Section 2.** This bill shall be effective October 1, 1990.

Approved April 19, 1990

Time: 2:50 P.M.

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Act No. 90-578

S. 458—Senator Hilliard

### AN ACT

To amend Section 16-28-4, Code of Alabama 1975, relating to the cutoff enrollment date of school children entering Grade One or Kindergarten so as to provide further for such cutoff enrollment date to ensure that students already enrolled in Kindergarten can proceed to Grade One notwithstanding this act; and provides that no board of education shall lose any teacher unit as a result of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-28-4, Code of Alabama 1975, is hereby amended to read as follows:

“§16-28-4.

“(a) A child who is six years of age on or before September 1 or the date on which school begins in the enrolling district shall be entitled to admission to the public elementary schools at the opening of such schools for that school year or as soon as practicable thereafter; a child who is under six years of age on September 1 or the date on which school begins in the enrolling district shall not be entitled to admission to such schools during that school year; except, that an underage child who transfers from the first grade of a school in another state may be admitted to school upon approval of the board of education in authority, and an underaged child who has moved into this state having completed or graduated from a mandated kindergarten program in another state shall be entitled to admission to the public elementary schools regardless of age. A child who becomes six years of age on or before February 1 may, on approval of the board of education in authority, be admitted at the beginning of the second semester of that school year to schools in school systems having semiannual promotions of pupils.

“(b) A child who is five years of age on or before September 1 or the date on which school begins in the enrolling district shall be entitled to admission to the local public school kindergartens at the

opening of such schools for that school year or as soon as practicable thereafter; a child who is under five years of age on September 1 or the date on which school begins in the enrolling district shall not be entitled to admission to such schools during that school year; except that, an underaged child who transfers from the public school kindergarten in another state may be admitted to local public kindergarten on the prior approval of the local board of education on a space available basis. The aforementioned underaged children transferring from the public school kindergartens of another state, upon successful completion of the kindergarten in the local public schools, will then be allowed admission to the first grade of the local public schools."

**Section 2.** Students who were four years of age on or before October 1, 1989, and are enrolled in a public, private or church four-year old program or kindergarten during the 1989-90 school year will be allowed to enroll in a five-year old public kindergarten, applicable only for the 1990-91 school year and to enroll in grade one of a public school, applicable only for 1991-92 school year. Students who are already enrolled in a public, private or church kindergarten will be allowed to enroll in grade one of a public school, applicable only for the 1990-91 school year.

**Section 3.** No public school system shall lose any teacher unit as a result of this act. The State Board of Education is authorized to adopt policies for local boards of education for the implementation of this section.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective with the commencement of the 1990-91 scholastic year.

Approved April 19, 1990

Time: 2:51 P.M.

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Act No. 90-579

S. 555—Senator Figures

### AN ACT

To allow certain members of the Employees' Retirement System of Alabama employed with the Alabama State Docks Terminal Railway to claim and purchase

credit in the Employees' Retirement System of Alabama for certain State service; to provide a manner of claiming such creditable service; and to provide for its termination.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law to the contrary notwithstanding, any member of the Employees' Retirement System of Alabama who has 10 or more years of creditable service in the Employees' Retirement System of Alabama immediately prior to October 1, 1990 and who is employed by the State of Alabama at the time this bill becomes law, may hereby claim and purchase credit within the Employees' Retirement System of Alabama for all the time which such member has served as an employee of the Alabama State Docks and was paid through the Alabama State Docks Terminal Railway Payroll and for which he is not otherwise eligible for credit in the Employees' Retirement System or any other retirement plan funded in whole or in part by the State except under the United States Social Security Act.

**Section 2.** Any member eligible to claim and purchase such credit for service under Section 1 of this act shall be awarded creditable service in the Employees' Retirement System of Alabama provided he or she shall pay into the system prior to said member's date of retirement or prior to April 1, 1991, whichever occurs first, a sum of money which is equal to a percentage of his current annual compensation or average final salary, whichever is higher; the applicable percentage of said annual compensation or average final salary, whichever is higher, shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation for each year of service credit under the provisions of this act.

**Section 3.** In order to receive credit in the Employees' Retirement System of Alabama as described in Section 1, the member shall waive any and all benefits for which he is presently eligible, or may become eligible in the future, under Federal Railroad Retirement Law. A member's failure to waive these benefits will prohibit any credit of prior service by the Employees' Retirement System of Alabama. Under no circumstances shall a person receive benefits from more than one pension plan for the same employment service.

**Section 4.** The provisions of this act that allow credit by the Employees' Retirement System of Alabama for prior Alabama State Docks Terminal Railway service shall terminate on April 1, 1991, and no one shall be eligible to utilize any of the options granted herein if not fully exercised and paid prior to April 1, 1991.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved April 19, 1990

Time: 2:52 P.M.

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Act No. 90-580

S. 527—Senator Barron

### AN ACT

To make a supplemental appropriation from the State General Fund to the Alabama Department of Economic and Community Affairs and the Alabama Department of Finance-FEMA for the fiscal year 1989-90.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other appropriations made to the Alabama Department of Economic and Community Affairs, there is also hereby appropriated to the Alabama Department of Economic and Community Affairs for the fiscal year ending September 30, 1990, the sum of Five hundred eighty-three thousand four hundred forty dollars and seventy-one cents (\$583,440.71) from the State General Fund.

**Section 2.** In addition to all other appropriations heretofore or hereafter made to the Alabama Department of Finance-FEMA, there is also hereby appropriated to Alabama Department of Finance-FEMA for the fiscal year ending September 30, 1990, the estimated sum of Five hundred thousand dollars (\$500,000.00) from the State General Fund. This appropriation is hereby made for payments of the State's share of administrative costs and matching grants furnished by the Federal Emergency Management Agency for major disasters.

**Section 3.** If any provisions, paragraph or part of this Act shall be declared invalid, unconstitutional, or void the balance of said Act shall remain in full force and effect.

**Section 4.** All laws and parts of laws, in conflict with this Act, are hereby expressly repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:53 P.M.

Act No. 90-581

S. 530—Senator Covington

## AN ACT

Reopening the teachers' and employees' retirement systems for purchase of prior service credit by an active and contributing member who had prior service in the office of Agriculture Economics at Auburn University; providing for the cost of purchasing such prior service credit and providing for the expiration of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any acting and contributing member of either the teachers' or the employees' retirement system may elect to purchase prior service credit for any full time employment he or she had in the office of Agriculture Economics at Auburn University, provided such person complies with the following conditions prescribed in this act.

**Section 2.** Any member eligible to claim and purchase such credit for service under Section 1 of this act shall be awarded creditable service under either the teachers' or the employees' retirement system, as the case may be, provided he or she shall pay into his or her retirement system or fund, prior to said member's date of retirement and prior to October 1, 1991, a sum equal to a percentage of his or her current annual earnable compensation, or average final compensation, whichever is greater, for each year of service purchased; the applicable percentage of this current annual earnable compensation or average final salary, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation, for each year of service purchased.

**Section 3.** The provisions of this act to reopen the retirement system or fund shall terminate October 1, 1991, and no one shall be eligible to utilize any of the options granted herein if not fully exercised and paid prior to October 1, 1991.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:55 P.M.

Act No. 90-582

H. 616—Reps. Mikell and Venable

## AN ACT

To make a conditional appropriation from the State General Fund to the Alabama Historical Commission—Fort Toulouse/Moundville State Monument for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all appropriations heretofore and hereafter made, there is hereby appropriated to the Alabama Historical Commission—Fort Toulouse/Moundville State Monument the sum of four hundred thousand dollars (\$400,000) from the funds in the State General Fund for the fiscal year ending September 30, 1990.

**Section 2.** The appropriation herein made shall be conditioned upon the availability of funds in the State General Fund and approval of the Governor.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:56 P.M.

Act No. 90-583

H. 807—Reps. Slaughter and Harper

## AN ACT

To amend various sections of Chapter 18, Title 40, Code of Alabama 1975, to correct clerical errors in citations to the United States Code, and to provide greater conformity with the current Internal Revenue Code; to amend section 40-18-1 by revising certain definitions and to add a definition of "Head of Family"; to amend section 40-18-1.1 to define the term "26 U.S.C."; to amend section 40-18-6 to conform to the current Internal Revenue Code provisions relating to determination of basis; to amend section 40-18-8 to conform to the current Internal Revenue Code provisions relating to recognition of gain (or loss); to amend section 40-18-11 to conform state inventory methods to the current Internal Revenue Code methods; to amend section 40-18-13 to conform the taxpayer's state taxable year and accounting method to his federal taxable year and accounting method; to amend section 40-18-14 to conform to certain Internal Revenue Code provisions relating to items included in gross income of individuals; to amend section 40-18-15 to conform to certain Internal Revenue Code provisions relating to deductions allowable to individuals; to amend section 40-18-35 to conform to the current Internal Revenue Code provisions relating to the deduction for bad debts by corporations; to amend Section 40-18-35.1 to conform to



the current Internal Revenue Code provisions relating to limitations of net operating losses in certain acquisition and reorganization transactions and to modify the dollar limitation on the deduction of net operating losses by corporations; to amend section 40-18-44 to conform to the current Internal Revenue Code provisions relating to reporting gains on the installment basis; to amend section 40-18-45 to amend the time period of assessment and collection of income taxes in those cases where there have been federal income tax changes which pertain to the Alabama income tax return; to repeal conflicting laws; to provide for the severability of any invalid provisions; and to provide effective dates.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-18-1, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-1. Definitions.

For the purpose of this chapter, the following terms shall have the respective meanings ascribed by this section:

(1) CASH. Any legal tender, negotiable paper or solvent credit.

(2) CORPORATION. Such term includes associations and joint stock companies.

(3) DOMESTIC. When applied to a corporation means created or organized under the laws of the state of Alabama.

(4) FIDUCIARY. A guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person.

(5) FISCAL YEAR. An accounting period of twelve months ending on the last day of any month other than December.

(6) FOREIGN. When applied to a corporation means created or organized outside of the state of Alabama.

(7) HEAD OF FAMILY. As used in this chapter, the term “head of family” has the same meaning as the term “head of household” as defined in 26 U.S.C. § 2(b).

(8) PAID. For the purpose of deductions and credits hereinafter provided for with respect to income tax means paid or accrued or paid or incurred; and the terms “paid or accrued” and “paid or incurred” shall be construed according to the method of accounting on the basis of which the net income is computed under this chapter.

(9) PERSON. Any individual, trust, estate, private corporation, association or partnership.

(10) REPORT FROM SOURCE. All individuals, corporations, associations and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers and all other officers and employees of the state or of any

municipal corporation or political subdivision of the state having control, receipt, custody or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income taxable under this chapter.

(11) **TAXABLE YEAR.** The calendar year or the fiscal year ending during such calendar year upon the basis of which net income is computed, or a period of less than twelve months resulting from a change in accounting period as provided in section 40-18-30.

(12) **TAXPAYER.** Any person subject to a tax imposed by this chapter, or whose income is, in whole or in part, subject to a tax imposed by this chapter."

**Section 2.** Section 40-18-1.1, Code of Alabama 1975, is hereby amended to read as follows:

**"§40-18-1.1. Operating Rules**

(a) For purposes of this chapter, the statement that gain, loss, income, basis, earnings and profits, or any other item shall be determined in accordance with a specified section or sections of Title 26 United States Code ("26 U.S.C.") or a specified federal public law (Pub. L. or P.L.) means that the principles set forth in such specified section or sections and the computations required by such section or sections shall be applied for purposes of this chapter, but shall be applied to the amounts of gain, loss, income, basis, earnings and profits or other items determined for purposes of this chapter and not to such items for federal income tax purposes.

(b) The Legislature hereby finds and declares that the adoption by this state for its personal and corporate income tax purposes of certain provisions of the laws of the United States relating to the determination of income for federal income tax purposes will (1) simplify preparation of state income tax returns by taxpayers, (2) improve enforcement of the state income tax laws through better use of information obtained from federal income tax audits, and (3) aid the interpretation of the state tax laws through increased use of federal judicial and administrative determinations and precedents. The Legislature does therefore declare that the amendments to this section are intended to accomplish the foregoing purposes. Accordingly, for the purposes of this chapter, the term "26 U.S.C." means the Internal Revenue Code, Title 26 of the United States Code, as in effect from time to time.

(c) The department of revenue shall have the authority to prescribe rules and regulations necessary to implement the principles stated above in the enforcement of this chapter."

**Section 3.** Section 40-18-6, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-6. Gain or loss—Basis of property; adjusted basis.

(a) Basis (unadjusted) of property.—The basis of property shall be the cost of such property with the following exceptions:

(1) INVENTORY VALUE.—If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) GIFT OR TRANSFER IN TRUST.—If the property was acquired by gift, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis is greater than fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the department of revenue shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the department of revenue finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the department of revenue as of the date or approximate date at which, according to the best information that the department of revenue is able to obtain, such property was acquired by such donor or last preceding owner. If the property was acquired by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise), the basis shall be the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on such transfer. If property was acquired by gift or transfer in trust on or after December 31, 1932 and prior to March 15, 1985, the basis shall be the fair and reasonable market value of such property at the time of such acquisition.

(3) PROPERTY TRANSMITTED AT DEATH.—If personal property was acquired by specific bequest or if real property was acquired by general or specific devise or by intestacy, the basis shall be the fair and reasonable market value of the property at the time of the death of the decedent. If the property was acquired by the decedent's estate from the decedent, the basis in the hands of the estate shall be the fair and reasonable market value of the property at the time of the death of the decedent. In all other cases, if the property was acquired either by will or by intestacy, the basis shall be the fair and reasonable market value of the property at the time of the distribution to the taxpayer.

(4) **PROPERTY ACQUIRED UPON LIKE KIND EXCHANGE.**—If the property was acquired upon an exchange described in section 40-18-8(c), the basis shall be determined in accordance with 26 U.S.C. § 1031(d)

(5) **TRANSFERS TO CORPORATION.**—The basis of property received by a distributee in a transaction described in sections 40-18-8(f) or (g) shall be determined in accordance with 26 U.S.C. § 358. The basis of property acquired by a corporation in a transaction described in section 40-18-8(f) or (g) shall be determined in accordance with 26 U.S.C. § 362

(6) **PROPERTY ACQUIRED ON LIQUIDATION OF SUBSIDIARY.**—The basis of property acquired by a corporation as a result of a liquidation of a subsidiary to which section 40-18-8(i) applies shall be determined in accordance with 26 U.S.C. § 334(b)

(7) **BASIS OF PROPERTY OF SUBSIDIARY AFTER ACQUISITION.**—The basis of property owned by a corporation shall be determined under 26 U.S.C. § 338 (relating to the treatment of certain stock purchases as asset acquisitions) if an election under such section is in effect for federal income tax purposes.

(8) **BASIS OF PROPERTY RECEIVED IN LIQUIDATION IN WHICH GAIN OR LOSS IS RECOGNIZED.**—If property is received in a distribution in complete liquidation and if gain or loss is recognized on the receipt of such property, then the basis of the property in the hands of the distributee shall be the fair market value of the property at the time of the distribution.

(9) **BASIS OF STOCK AFTER STOCK DIVIDEND.**—The basis of stock with respect to which a corporation makes a distribution of its stock and the basis of the stock so distributed shall be determined in accordance with 26 U.S.C. § 307.

(10) **INVOLUNTARY CONVERSION.**—If property was acquired in connection with an involuntary conversion in which any gain or loss was not recognized under section 40-18-8(d), the basis of such property shall be determined in accordance with 26 U.S.C. § 1033.

(11) **ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.**—If any gain is not recognized on the sale of principal residence pursuant to section 40-18-8(e), the basis of the new residence (as that term is used in such section) shall be determined in accordance with 26 U.S.C. § 1034.

(12) **PROPERTY ACQUIRED BEFORE JANUARY 1, 1933.**—The basis for determining gain or loss on the sale or disposition of property acquired prior to January 1, 1933, shall be the fair and

reasonable market value as of January 1, 1933. In determining the fair and reasonable market value of stock in a corporation as of January 1, 1933, due regard shall be given to the fair and reasonable market value of the assets of the corporation as of that date.

(13) DETERMINATION OF AMOUNT OF LOSS OR GAIN OR OF DEPRECIATION OR DEPLETION.—Whenever in the calculation of income taxable hereunder for any taxable year it is necessary to determine the amount of gain or loss or of depreciation or depletion in the case of property acquired before January 1, 1933, the basis of property shall be fixed in the same manner as is provided in subdivision (13) of this subsection.

(14) PROPERTY ACQUIRED FROM SPOUSE OR FORMER SPOUSE.—If the property was acquired from a spouse or former spouse in a transaction in which gain or loss was not recognized by reason of section 40-18-8(p), then the basis shall be the same as the basis of the property to the transferor.

(15) BASIS OF REPLACEMENT PROPERTY IN SALE OF STOCK TO EMPLOYEE STOCK OWNERSHIP PLAN OR CO-OPERATIVE—If, in connection with a sale of securities to an employee stock ownership plan or an eligible worker-owned cooperative, any gain was not recognized pursuant to section 40-18-8(p), the basis of the qualified replacement property, as defined in 26 U.S.C. § 1042, shall be determined in accordance with 26 U.S.C. § 1042(d).

(b) Adjusted basis.—The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided. Proper adjustment in respect of the property shall in all cases be made:

(1) For expenditures, receipts, losses or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable year;

(2) In respect of any period since January 1, 1935, for exhaustion, wear and tear, obsolescence, amortization and depletion, to the extent allowed (but not less than the amount allowable) under this chapter of prior income tax laws;

(3) In respect of any taxable period prior to January 1, 1935, for exhaustion, wear and tear, obsolescence, amortization and depletion, to the extent allowable; and

(4) In the case of stock, to the extent not provided for in the foregoing paragraphs, for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis.

**Section 4.** Section 40-18-8, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-8. Same—Recognition.

(a) General rule.—Upon the sale or exchange of property the entire amount of the gain or loss determined under section 40-18-7 shall be recognized, except as hereinafter provided in this section.

(b) Exchange of stock for stock of same corporation.—No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(c) Like kind exchanges.—If an exchange of property satisfies the requirements of 26 U.S.C. § 1031 (relating to like kind exchanges) then the amount of gain or loss recognized in such exchange shall be determined in accordance with said U.S.C. § 1031.

(d) Involuntary conversions.—If a taxpayer validly elects to determine the amount of gain recognized for federal income tax purposes under 26 U.S.C. § 1033 (relating to involuntary conversions), the amount of gain recognized shall be determined in accordance with said 26 U.S.C. § 1033.

(e) Rollover of gain on sale of principal residence.—If a taxpayer sells his principal residence and purchases a new principal residence located within Alabama and if the requirements of 26 U.S.C. § 1034 are satisfied, then the amount of gain recognized on such sale shall be computed in accordance with said 26 U.S.C. § 1034.

(f) Transfer of property to corporation controlled by transferor.—If property is transferred to a corporation in a transaction which satisfies the requirements of 26 U.S.C. § 351 (relating to transfers to corporations controlled by the transferor), the amount of gain or loss recognized shall be determined in accordance with said 26 U.S.C. § 351, as modified by 26 U.S.C. § 357 (relating to the recognition of gain as a result of the transferee corporation's assumption of liabilities).

(g) Reorganizations.—In the case of a reorganization defined in 26 U.S.C. § 368 (relating to definitions applicable to corporate reorganizations) or a distribution (other than a reorganization) subject to 26 U.S.C. § 355, the amount of gain or loss recognized shall be

determined in accordance with 26 U.S.C. §§ 354, 355, 356, 361, 371 and 374.

(h) Exchange of stock for property.—No gain or loss shall be recognized by a corporation on the receipt of money or other property in exchange for stock (including treasury stock) of such corporation.

(i) Complete liquidation of subsidiaries.—No gain or loss shall be recognized on the receipt by a corporation of property on the complete liquidation of a subsidiary corporation when the requirements of 26 U.S.C. § 332 (relating to complete liquidation of subsidiaries) are satisfied.

(j) Gain or loss on sales or exchanges in connection with certain liquidations.—The amount of gain or loss recognized by a corporation on the sale or exchange of property shall be determined in accordance with 26 U.S.C. § 337, if every requirement for the application of said 26 U.S.C. § 337 is satisfied.

(k) If an acquiring corporation makes an election under 26 U.S.C. § 338, the amount of gain recognized by the target corporation shall be determined under said 26 U.S.C. § 338.

(l) Taxability of corporation on distribution.—The amount of gain recognized by a corporation on the distribution of its stock, rights to acquire its stock, or property shall be determined in accordance with 26 U.S.C. § 311 (relating to taxability of corporations on distributions).

(m) Gain recognized on liquidation.—The amount of gain recognized by a liquidating corporation on the distribution of its property in complete liquidation shall be determined under 26 U.S.C. § 336.

(n) Definition.—The term “reorganization” as used in this chapter shall have the same meaning as in 26 U.S.C. § 368(a).

(o) Gain or loss on property transferred to spouse or former spouse.—Gain or loss shall not be recognized on the transfer of property to a spouse or former spouse if such gain or loss is not recognized for federal income tax purposes by reason of 26 U.S.C. § 1041.

(p) Sales of stock to employee stock ownership plans or certain cooperatives.—The amount of gain recognized by a taxpayer who has validly elected to determine the amount of gain recognized for federal income tax purposes under 26 U.S.C. § 1042 (relating to sales of stock to employee stock ownership plans or certain cooperatives) shall be determined in accordance with said 26 U.S.C. § 1042. If a taxpayer disposes of any qualified replacement property and recognizes gain under 26 U.S.C. § 1042(e), then, notwithstanding any other

provision of this chapter, gain (if any) shall be recognized to the same extent and at the same time for purposes of this chapter as under said 26 U.S.C. § 1042(e). The term "qualified replacement property" shall have the meaning set forth in said 26 U.S.C. § 1042."

**Section 5.** Section 40-18-11, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-11. Inventory.

Whenever in the opinion of the department of revenue the use of inventories is necessary in order clearly to determine the income of any taxpayer, the inventory shall be taken by such taxpayer in accordance with the methods and procedures prescribed in 26 U.S.C. §§ 263A, 471, 472, 473 and 474."

**Section 6.** Section 40-18-13, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-13. Same—Computation.

(a) Net income shall be computed on the basis of the same taxable year and in accordance with the same method of accounting that the taxpayer properly employs for federal income tax purposes. If no such method of accounting has been employed or if the method so employed does not clearly reflect income, computation shall be made upon such basis and in such manner as in the opinion of the department of revenue, and consistent with federal income tax treatment, does clearly reflect income. If the taxpayer has no annual accounting period or does not keep proper books of account, the net income shall be computed on the basis of the calendar year.

(b) In the case of a partnership, Alabama S corporation, or personal service corporation electing a taxable year under 26 U.S.C. §444, this section shall be applied without regard to the requirement to make payments under 26 U.S.C. § 7519."

**Section 7.** Section 40-18-14, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-14. Gross income of individuals.

The term "gross income" as used herein:

(1) Includes gains, profits and income derived from salaries, wages or compensation for personal services of whatever kind, or in whatever form paid, including the salaries, income, fees and other compensation of state, county and municipal officers and employees, or from professions, vocations, trades, business, commerce or sales, or dealings in property whether real or personal, growing out of ownership or use of or interest in such property; also from interest, royalties, rents, dividends, securities or transactions of any business



carried on for gain or profit and the income derived from any source whatever, including any income not exempted under this chapter and against which income there is no provision for a tax. The term "gross income" as used herein also includes alimony and separate maintenance payments with the amount of such included income to be the same as that included in gross income for federal income tax purposes under 26 U.S.C. § 71 (relating to alimony and separate maintenance payments). The term "gross income" as used herein also includes any amount included in gross income under 26 U.S.C. § 83 at the time it is so included under 26 U.S.C. § 83. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer unless under the methods of accounting permitted in this chapter any such amounts are to be properly accounted for as of a different period; but

(2) Does not include the following items which shall be exempt from income tax under this chapter:

a. Amounts received under life insurance policies and contracts paid by reason of the death of the insured;

b. Amounts received, other than amounts paid by reason of the death of the insured, under life insurance endowment or annuity contracts, either during the term or at maturity or upon surrender of contracts, equal to the total amount of premiums paid thereon;

c. The value of property acquired by gift, bequest, devise or descent, but the income from such property shall be included in the gross income;

d. Interest upon obligations of the United States or its possessions; or securities issued under provisions of the Federal Farm Loan Act of July 18, 1916; or bonds issued by the war finance corporation;

e. Any amounts received by an individual which are excludable from gross income under 26 U.S.C. § 104 (relating to compensation for injuries or sickness) or 26 U.S.C. § 105 (relating to amounts received under accident or health plans);

f. Interest on obligations of the state of Alabama and any county, municipality or other political subdivision thereof;

g. The rental value of a home furnished a minister of the gospel as a part of his compensation, or the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home;

h. For each individual resident taxpayer, or each husband and wife filing a joint income tax return, as the case may be, any gain realized from the sale of a personal residence of such taxpayer, with the amount of such excluded income, except as provided herein, to

be the same as that allowable for federal income tax purposes under 26 U.S.C. § 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) if the election provided for therein is made by such taxpayer for federal income tax purposes;

i. Contributions made by an employer on behalf of an employee to a trust which is part of a qualified cash or deferred arrangement (as defined in 26 U.S.C. § 401(k)(2), or 5 U.S.C. § 8437 under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash and contributions made by an employer for an employee for an annuity contract, which contributions would be excludable from the gross income (for federal income tax purposes) of the employee in accordance with the provisions of 26 U.S.C. § 403(b). The limitations imposed by 26 U.S.C. § 402(g) shall apply for purposes of this paragraph.

j. Amounts (other than amounts excluded under subparagraph i.) that an employee is allowed to exclude from gross income for federal income tax purposes pursuant 26 U.S.C. § 125 (relating to cafeteria plans).

k. Amounts paid or incurred by an employer on behalf of an employee if the amounts may be excluded from gross income federal income tax purposes by an employee pursuant to 26 U.S.C. § 129 (relating to dependent care expenses).

(3) The term "gross income" shall mean and include all of such income arising from sources within and without the state whether paid to residents or nonresidents, including interest on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise, and all amounts received, although paid under a contract for the sale of goods or otherwise, representing profits in the manufacture and disposition of goods within or without the state of Alabama. It shall also mean and include interest, dividends, and other corporate distributions to the extent specified in section 40-18-36 or other forms of income from and gains or profits realized upon the sale, exchange or other disposition of all forms of intangible personal property owned by or held anywhere within or without the state of Alabama for the account of any resident or domestic corporation."

**Section 8.** Section 40-18-15, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-15. Deductions for individuals generally.

(a) In computing net income, no deduction shall be allowed for any cost required to be capitalized in accordance with 26 U.S.C. § 263A; otherwise, there shall be allowed as deductions:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a

reasonable allowance for salaries or other compensation for personal services actually rendered and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

(2) Certain interest paid or accrued within the taxable year on indebtedness, but, in the case of a nonresident, the proportion of such interest which the amount of gross income from sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama. Beginning with all tax years or periods beginning after December 31, 1987, the interest deductions allowed in each of such tax years or periods shall be limited to the amount allowable as an interest deduction for federal income tax purposes in the corresponding tax year or period pursuant to the provisions of 26 U.S.C. § 163.

(3) The following taxes paid or accrued within the taxable year:

a. Income taxes, Federal Insurance Contribution Act taxes, taxes on self-employment income and estate and gift taxes imposed by authority of the United States or any possession of the United States; provided, that the amount of such taxes apportioned by a nonresident taxpayer shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

b. State and local, and foreign, occupational license taxes and contributions to state unemployment funds.

c. State and local, and foreign, real property taxes.

d. State and local personal property taxes.

e. The generation-skipping transfer (GST) tax imposed on income distributions by 26 U.S.C. § 2601.

f. The taxes described in paragraphs c, d, and e shall be deductible only to the extent that such taxes are deductible for federal income tax purposes under 26 U.S.C. § 164 (relating to taxes) and in the case of nonresidents, these taxes shall be apportioned to Alabama by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

g. In addition, there shall be allowed as a deduction, state and local, and foreign taxes, except income taxes, and taxes imposed by authority of the United States or any possession of the United States, which are paid or accrued within the taxable year in carrying on a

trade or business or an activity described in 26 U.S.C. § 212 (relating to expenses for the production of income).

h. Notwithstanding paragraph g. any tax described in any paragraph preceding paragraph g that is paid or accrued in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition of such property.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but, in the case of a taxpayer other than a resident of the state, only as to such transactions within the state;

(6) Casualty and theft losses sustained during the taxable year of property not connected with the conduct of a trade or business or a transaction entered into for profit as determined in accordance with subsections (c) (3) and (h) of 26 U.S.C. § 165. In the case of a nonresident, the deduction shall be allowed only for the losses arising from property located within the state of Alabama and the limitations in 26 U.S.C. § 165 shall be applied with regard only to the taxpayer's Alabama adjusted gross income. No loss shall be allowed if, at the time of filing the return, such loss has been claimed on a federal estate tax return;

(7) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama income tax law;

(8) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence;

(9) In the case of mines, oil, and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably proportioned between the lessor and the lessee;

(10) Charitable contributions to the extent allowed for federal income tax purposes under 26 U.S.C. § 170 (relating to charitable

contributions and gifts). In the case of a nonresident individual, this deduction shall be limited to the amount determined by multiplying the amount described in the previous sentence by a fraction, the numerator of which is the taxpayer's adjusted gross income from all sources within the state of Alabama and the denominator is the taxpayer's adjusted gross income from all sources;

(11) In the case of a resident individual, the deduction allowed such individual for federal income tax purposes by 26 U.S.C. § 219 (relating to retirement savings);

(12) The deduction allowed for federal income tax purposes by 26 U.S.C. § 404 (relating to qualified pension, profit sharing, stock bonus, and annuity plans); provided, however, that contributions to such plans on behalf of individuals who are employees within the meaning of 26 U.S.C. § 401(c)(1) (relating to self-employed individuals) shall be deductible only if such individuals are residents;

(13) For each individual income taxpayer, medical and dental expenses, including amounts paid for medicine and drugs and amounts paid for accident and health insurance, as determined in accordance with 26 U.S.C. § 213; provided, however, that the limitation of the deduction to the excess of such expenses over 7.5 percent of adjusted gross income as provided in said 26 U.S.C. § 213 shall instead be limited to the excess of such expenses over 4.0 percent of adjusted gross income;

(14) For each individual income taxpayer, the deduction determined in accordance with 26 U.S.C. § 212 for all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income, or in connection with the determination, collection, or refund of any tax;

(15) Any expense not exceeding \$1,000.00 actually incurred during the taxable year in constructing on his property a family radioactive fallout shelter, as approved and certified by the state department of civil defense, and any amount not exceeding \$1,000.00 which he contributed during the taxable year toward the construction of a community radioactive fallout shelter; and

(16) a. An amount equal to the aggregate of the net operating loss carryovers to the taxable year, plus the net operating loss carrybacks to such year. For purposes of this subdivision, the term "net operating loss deduction" means the deduction allowed by this paragraph.

b. A net operating loss for any taxable year ending after December 31, 1976, and before January 1, 1985, shall be a net operating

loss carryover to each of the five taxable years following the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1984, shall be a net operating loss carryover to each of the 15 years following the taxable year of such loss.

c. The entire amount of the net operating loss for any taxable year (hereinafter referred to as the "loss year") shall be carried to the earliest of the taxable years to which, by reason of paragraph b, such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed:

1. With the modifications specified in paragraph f other than subparagraphs 1 and 3 thereof; and

2. By determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

d. Any taxpayer entitled to a carryback period under paragraph b may elect to relinquish the entire carryback period. Such election shall be made in such a manner as may be prescribed by the department of revenue, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year.

e. For purposes of this subdivision, the term "net operating loss" means the excess of the deductions allowed by this chapter over the gross income. Such excess shall be computed with the modifications specified in paragraph f of this subdivision.

f. The modifications referred to in this subdivision are as follows:

1. No net operating loss deduction shall be allowed.

2. No deduction shall be allowed under sections 40-18-19(a)(6) and (7), and 40-18-19(b) (relating to personal exemptions and credit for dependents). No deductions in lieu of any such deduction shall be allowed.

3. The deductions allowable by this chapter which are not attributable to a taxpayer's trade or business, including the federal individual income tax deduction, shall be allowed only to the extent

of the amount of the gross income not derived from such trade or business. For purposes of the preceding sentence:

(i) Any gain or loss from the sale or other disposition of property used in the trade or business of a character which is subject to the allowance for depreciation provided in subdivisions (8) and (9) of subsection (a), or real property used in the trade or business shall be treated as attributable to the trade or business;

(ii) The modifications specified in subparagraphs 1 and 3 shall be taken into account;

(iii) Any deduction allowable under section 40-18-15(a)(6) (relating to casualty losses) shall not be taken into account; and

(iv) Any deduction allowed under section 40-18-15(a)(12) to the extent attributable to contributions which are made on behalf of an individual who is an employee within the meaning of said 26 U.S.C. §401(c)(1) (relating to self-employed individuals) shall not be treated as attributable to the trade or business of such individual.

4. The optional standard deduction allowed under section 40-18-15(b)(1) shall be treated as a deduction allowed by this chapter. For purposes of paragraph e:

(i) The deduction provided by the preceding sentence shall be in lieu of any itemized deductions of the taxpayer, and

(ii) Such sentence shall not apply to an individual who elects to itemize deductions.

g. In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

(17) There shall be allowed resident taxpayers a deduction from the taxpayer's adjusted gross income for state income tax purposes of the total cost of installation for conversion from gas or electricity to wood as the primary energy source for heating their individual domestic homes for the taxable year during which such conversion was completed.

(18) For individual resident taxpayers, alimony and separate maintenance payments, the amount deductible to be the same as the amount deductible for federal income tax purposes under 26 U.S.C. § 215 (relating to alimony payments).

(19) Moving expenses paid or incurred during the taxable year to the same extent that such expenses are deductible, except as provided herein, for federal income tax purposes under 26 U.S.C. § 217 (relating to moving expenses). The term "new principal place

of work," as such term is made relevant hereto by the federal statute, means and includes only places of work located within the state of Alabama, and the deduction for moving expenses provided for herein shall be allowable only in the event that such "new principal place of work" is located within the state of Alabama.

(20) Any expense not exceeding \$35,000 actually incurred during the taxable year in removing from his property any architectural or transportation barriers to handicapped persons with nonambulatory and semiambulatory disabilities; provided, however, that any improvements resulting from such expense shall not be eligible to be capitalized for depreciation.

(21) Notwithstanding subdivision (1), beginning with all tax years or periods beginning after December 31, 1987, the deduction for expenses of travel, entertainment, and meals shall be determined in accordance with 26 U.S.C. § 274.

(22) The deduction allowed by 26 U.S.C. § 179 (relating to expensing certain depreciable property): provided that no deduction shall be allowed under subdivision (8) for any amount allowed as a deduction under this subdivision.

(23) The deduction allowed by 26 U.S.C. § 195 (relating to amortization of start-up expenditures), but in the case of a nonresident, only if the principal place of business of the business investigated, created, or acquired is located in the state of Alabama.

(24) The deduction allowed by subdivision (1), to the extent that it consists of unreimbursed employee business expenses, and the deduction allowed by subdivision (14), shall be allowed only to the extent that the aggregate of such deductions exceeds 2 percent of adjusted gross income.

(b) (1) In lieu of the deductions allowable to individual taxpayers, as provided in subdivision (1) to the extent of unreimbursed employee business expenses, and as provided in subdivisions (2), (3), (5), (6), (10), (13), (14), (17), and (19) of subsection (a) of this section, for the taxable years beginning on and after January 1, 1982, at the election of the taxpayer required to use the rate schedule in subdivision (1) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$2,000.00, whichever is the lesser, and at the election of the taxpayer required to use the rate schedule in subdivision (2) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$4,000.00, whichever is the lesser and, in addition to said deduction, a deduction for the amount of federal income tax paid or accrued within the taxable year; provided, that in the case of a nonresident taxpayer the deduction for the optional standard deduction shall be an amount equal



to the optional standard deduction that would be allowable if the taxpayer were a resident taxpayer, multiplied by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama; and the amount of federal income tax so deductible to Alabama shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

(2) If separate returns are filed by husband and wife and one spouse elects to claim the deduction allowed herein, the election to claim such deduction will be denied unless the other spouse also elects to claim the deduction allowed herein.

(c) The term "adjusted gross income," as used in this section, shall mean the gross income as defined by section 40-18-14, less:

(1) The deductions allowed in this section which are attributable to a trade or business carried on by the taxpayer if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(2) Travel expenses while away from home in the pursuit of a trade or business if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(3) The deductions allowed by this section which consist of expenses paid or incurred by the taxpayer in connection with the performance by him of services as an employee, to the extent reimbursed by his employer;

(4) The deductions, other than those provided in subdivisions (1), (5) and (6) of subsection (a) allowed by this section and which are attributable to property held for the production of rents or royalties;

(5) The deductions, other than those provided in subdivision (1) of this subsection, for depreciation and depletion, allowed by subdivisions (8) and (9) of subsection (a) of this section to a life tenant of property or to an income beneficiary of property held in trust; and

(6) The deduction, other than those provided in subdivision (1) of this subsection, allowed by section 40-18-8 as losses from the sale or exchange of property.

(d) In the case of a nonresident individual, the deductions allowed in subdivisions (1), (4), (5), (7), (8), (9) and (19) of subsection (a) of this section shall be allowed only if and to the extent that

they are connected with income arising from a source within the state of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the state of Alabama shall be determined under rules and regulations prescribed by the department of revenue.:

**Section 9.** Section 40-18-35, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-35. Deductions allowed corporations generally.

(a) In computing the net income of domestic corporations doing business in this state subject to the tax imposed by section 40-18-31, there shall be allowed as deductions items described in the following numbered subdivisions of this section. In computing the net income of foreign corporations doing business in this state subject to the tax imposed by section 40-18-31, there shall be allowed as deductions the items described in the following numbered subdivisions of this section, but only if, and to the extent that, such items are referable to or arise in connection with income of such corporations arising from sources within the state of Alabama; the proper apportionment and allocation of deductions of such foreign corporations with respect to the income arising from sources within and without the state of Alabama shall be determined under the rules and regulations prescribed by the department of revenue; provided, that in the case of foreign corporations doing business partly within and partly without Alabama where income is apportioned and allocated to Alabama the expense incurred by such corporation in connection with earning such income shall be apportioned to Alabama in such manner as shall fairly reflect the net income of the corporation attributable to its operations in Alabama; provided, that none of the deductions allowed by subdivision (13) of this section shall be subject to any such apportionment or allocation and all thereof shall be allowed in full, any provisions thereof to the contrary notwithstanding. Subject to the limitations contained in the preceding sentence, there shall be allowed as deductions in computing the net income of corporations:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business including a reasonable allowance for salaries and other compensation for personal services actually rendered and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

(2) All interest paid or accrued within the taxable year on its indebtedness except on indebtedness incurred or continued to purchase or carry obligations or securities, other than obligations of the

United States issued after September 24, 1917, the interest upon which is wholly exempt from taxation under this title as income to the taxpayer; in the case of a foreign corporation, the proportion of such interest which shall be deductible shall be a portion of such interest determined by the ratio the amount of its gross income from sources within the state of Alabama bears to the amount of its gross income from all sources both within and without the state of Alabama;

(3) Taxes paid or accrued within the taxable year imposed from time to time (i) by the authority of the United States; (ii) by authority of any of its possessions; or (iii) by the authority of any state or territory, or any county, school district, municipality, or other taxing subdivision of any state or territory not including income tax and not including those assessed for local benefits of a kind tending to increase the value of the property assessed but excluding the income taxes levied and imposed under this title; provided, however, that any tax not specified in one of the numbered paragraphs of 26 U.S.C. §164(a) which is paid or accrued in connection with the acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition. In the case of a foreign corporation, taxes paid or accrued within the taxable year imposed by the authority of the state of Alabama or any county, school district, municipality or any other taxing subdivision of the state of Alabama excluding the income taxes levied and imposed under this title and the amount of taxes other than income taxes imposed by other authorities mentioned in this subdivision which shall be deductible by such foreign corporations shall be determined by the ratio that the gross income of the foreign corporation from sources within the state of Alabama bears to its gross income from all sources both within and without the state of Alabama; the amount of federal income tax which shall be deductible by such foreign corporation shall be determined by the ratio that the net income, as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state or local taxes measured by net income, of the corporation on business done within Alabama bears to its net income, as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state, or local taxes measured by net income, from business done both within and without the state of Alabama;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise;

(5) Losses from debts which become wholly or partially worthless during the taxable year determined in accordance with 26 U.S.C. §166 (relating to bad debts);

(6) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

(7) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon the cost, including cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; in the case of leases the deductions allowed by this subsection shall be equitably apportioned between the lessor and the lessee;

(8) In the case of marine insurance companies, there shall be allowed amounts repaid to policyholders on account of premiums previously paid by them and interest paid on such amounts between the ascertainment and the payment thereof;

(9) In the case of mutual insurance companies, other than mutual life or mutual marine insurance companies requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses and reinsurance reserves;

(10) Charitable contributions, to the extent deductible for federal income tax purposes under 26 U.S.C. § 170;

(11) The deduction allowed for federal income tax purposes by 26 U.S.C. § 404;

(12) A deduction for any expense not exceeding \$35,000.00 actually incurred during the taxable year in removing from any facility or structure in operation in the state of Alabama any architectural or transportation barriers to handicapped persons with nonambulatory or semiambulatory disabilities; provided, however, that any improvements resulting from such expense shall not be eligible to be capitalized for depreciation.

(13) All amounts invested during the taxable year in all devices, facilities or structures and all identifiable components thereof or materials for use therein, used or placed in operation in the state of Alabama, or to be used or placed in operation in the state of Alabama, acquired or constructed primarily for the control, reduction or elimination of air or water pollution; provided, that in lieu of deducting such amounts, the corporation may elect to amortize all such amounts over such period, not exceeding the useful life of devices, facilities or structures for which such amounts were expended, as it specifies in its tax return respecting the taxable year during which such

amounts were expended, in which case it shall be entitled to appropriate deductions for the taxable years so specified; and provided further, that the taking of any deduction authorized by this subdivision shall be optional with the corporation; and that if any such deduction is taken with respect to such devices, facilities or structures, such corporation shall not be permitted any allowance for depreciation or obsolescence thereof otherwise allowable under this section; and

(14) The amounts received after December 31, 1968, as dividends, including liquidating dividends, whether received in cash or property or both, from a corporation or any subsidiary corporation which is either taxable under this chapter upon its net income or exempt from taxation under this chapter by virtue of being an insurance company upon which the statutes of Alabama impose a tax upon, measured by, or with respect to its premium income, if at the time of the receipt of such dividends the corporation receiving such dividends is the owner of stock in the corporation distributing such dividends:

a. Possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote; and

b. Constituting at least 50 percent of the total number of shares of all classes of stock other than classes of stock which are limited and preferred as to dividends.

(15) Organizational expenses ratably over a period of not less than 60 months determined in accordance with 26 U.S.C. § 248;

(16) The deduction allowed by 26 U.S.C. §179 (relating to expensing certain depreciable property); provided that no deduction shall be allowed by subdivision (6) for any amount allowed as a deduction under this subdivision;

(17) Notwithstanding subdivision (1), the deduction for expenses of travel, entertainment and meals shall be determined in accordance with 26 U.S.C. §274;

(18) In the case of a personal service corporation that is subject to the minimum distribution requirements of 26 U.S.C. §280H, the deductions otherwise allowed by this section shall be limited in accordance with 26 U.S.C. §280H.

(b) Notwithstanding any provision of subsection (a) no deduction shall be allowed for any cost required to be capitalized in accordance with 26 U.S.C. §263A."

**Section 10.** Section 40-18-35.1, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-35.1. Carry forward of net operating losses.

In computing the net income of domestic and foreign corporations subject to income tax as outlined in section 40-18-35, there shall be

allowed, in addition to the deductions specified therein, a deduction for the sum of the net operating losses which may be carried forward to the taxable year for which the net income of the corporation is being computed.

(1) The term "net operating loss" for the purposes of this section means the excess of the deductions (other than the deduction allowed by this subdivision) allowed by this chapter during a taxable year of the corporation which begins after December 31, 1983 over the corporation's gross income during such taxable year. For purposes of this paragraph, the corporation's gross income and allowable deductions shall be determined under the provisions of this chapter applicable to the year in which the net operating loss arises.

(2) A net operating loss shall be carried forward to the earliest subsequent taxable year in which the corporation has net income (determined without taking into account the deduction allowed by this subdivision). The amount of a net operating loss which may be carried to any later taxable year shall be the excess of the net operating loss over the sum of the amounts thereof deductible under this subdivision in all the taxable years preceding this taxable year.

(3) If net operating losses arising in more than one taxable year can be carried forward to a taxable year of the corporation, the net operating loss arising from the earliest of such years shall be deducted first.

(4) In case of a nonresident foreign corporation, the net operating loss deduction allowed by this section shall be limited to sources attributable to Alabama.

(5) A net operating loss may be carried forward and deducted only during the 15 consecutive year period immediately following the year in which it arose."

(6) In the case of an acquiring corporation subject to the rules of 26 U.S.C. §381, or in the case of a new loss corporation within the meaning of 26 U.S.C. §382, or in the case of the recognized built-in gains of a gain corporation within the meaning of 26 U.S.C. §384, only such net operating losses as are allowable in accordance with said 26 U.S.C. §§ 381, 382 and 384 shall be allowed as a deduction under this section. This subdivision shall be applied before the limitations in the preceding subdivisions are applied.

**Section 11.** Section 40-18-44, Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-44. Installment method.

Income arising from an installment sale (including the sale by a dealer in personal property) may be reported in accordance with

26 U.S.C. § 453; provided that the amendment made to said section 453 by the Tax Reform Act of 1984 (Pub. L. No. 98-369), adding 26 U.S.C. § 453(i), shall not apply. The department of revenue shall prescribe regulations relating to the election to report on the installment method or not to report on the installment method."

**Section 12.** Section 40-18-45 of the Code of Alabama 1975, is hereby amended to read as follows:

"§40-18-45. Period of limitation upon assessment and collection—Established; request for prompt assessment; involuntary conversions; qualified stock acquisitions.

(a) General rule.—The amount of income tax imposed by this title shall be assessed within three years after the return was filed, and no proceedings in court, without assessment, for the collection of such taxes shall be begun after the expiration of such period; provided, that the state department of revenue may, at any time within five years from the date of the filing of an income tax return with the state of Alabama, assess and institute proceedings for the collection of the income taxes so imposed, if the taxpayer omits from the gross income reported on said tax return, as defined in section 40-18-14, an amount which is in excess of 25 percent of the amount of gross income so reported in said return.

(b) (1) Reporting federal income tax changes.—Notwithstanding subsection (a), when a federal income tax return is changed in any manner after it has been filed with the United States Internal Revenue Service and when the facts requiring such change result in an increase in the income tax owed under this chapter, the department of revenue may, at any time within three years after such change becomes final, assess and institute proceedings in accordance with this chapter and the Alabama Administrative Procedure Act, Title 41, chapter 22, Code of Alabama, as amended, for the collection of such income tax, except as provided in subdivision (2) of this subsection.

(2) Notwithstanding subdivision (1) of this subsection, nothing in this subsection shall allow the department to assess and institute proceedings for collection of taxes owed under this chapter when such tax has already been determined by final assessment entered by the department and the time period for appeal from said final assessment has expired. When the department receives notification of a final determination to the federal income tax return of a taxpayer or notification of proceedings which result in such a change, the department shall have one year from the date of such notification or from the date of such change, whichever is later, to assess and institute proceedings as provided in subdivision (1) herein. In no event, however, shall notification as provided herein extend the time limit provided in subdivision (1) of this subsection, nor limit the

time in subsection (a) of this section. Notwithstanding subsection (a), the tax assessed under this chapter as a result of the provisions of this subsection shall be limited to those changes made on the federal income tax return.

(3) When a federal income tax return is changed in any manner after it has been filed with the United States Internal Revenue Service other than by an amended return, and such change results in a claim for refund of taxes imposed by this chapter, such claim for refund must be filed within one year after final determination of such federal income tax return changes, unless filed within the time provided in section 40-18-43. Such claim may serve as the required notification and shall be limited only to those items changed on the federal income tax return that affect the income tax liability imposed by this chapter.

(4) For purposes of this subsection, the final determination of a federal income tax liability means that liability as agreed with the United States Internal Revenue Service by the taxpayer, or as determined by any administrative or judicial proceeding from which no further appeal may be taken.

(c) Request for prompt assessment.—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceedings in court without assessment for the collection of such tax shall be begun within 18 months after written request therefor, filed after the return is made, by the executor, administrator or other fiduciary representing the estate of such decedent or by the corporation, but not after the expiration of three years after the return was filed. This subsection shall not apply in the case of a corporation unless such written request notifies the department that the corporation has dissolved or contemplates dissolution at or before the expiration of such 18 months, and the dissolution if not completed at the time of such written request is in good faith begun before the expiration of such 18 months, and the dissolution is completed within 18 months.

(d) Involuntary conversions.—If a taxpayer has made the election provided in 40-18-8(d), then the amount of income tax imposed by this chapter on the gain realized in any taxable year as a result of the involuntary conversion may be assessed at any time before three years have elapsed from the date on which the taxpayer has notified the department of revenue of the replacement of the property in accordance with section 40-18-8(d) or of his intention not to so replace it.

(e) Qualified stock acquisitions.—If a taxpayer has validly elected to have the provisions of sections 40-18-6(a)(7) and 40-18-8(1) apply



to an acquisition of stock before January 1, 1985, any liability of the taxpayer under this chapter which arises solely from amendment of its returns to be consistent with such election may be assessed at any time before five years have elapsed from the date on which the taxpayer filed such amended returns."

**Section 13.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 14.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 15.** Except as provided in the following two sentences, this Act shall be effective for all tax years or periods beginning after December 31, 1989. With respect to the amendments made by section 7 of this Act, adding subdivisions j and k to section 40-18-14(a) (relating to cafeteria plans and dependent care expenses, respectively), such amendments shall be effective for all tax years or periods beginning after December 31, 1990. With respect to the amendments made by Section 12 of this Act, amending section 40-18-45 (relating to the time period for assessment and collection of income taxes), such amendments shall be effective immediately following passage of this Act and approval by the Governor and its otherwise becoming a law.

Approved April 19, 1990

Time: 2:57 P.M.

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Act No. 90-584

H. 705—Rep. Layson

## AN ACT

To provide further for the dairy industry; to prescribe the policy of the Alabama Dairy Promotion Act; to define terms; to deem the associations not in restraint of trade; to provide for the policy and basis of assessing amounts for promoting dairy products; to provide for the notice and eligibility of participation in referendums, the manner in which the referendums will be conducted and approved; to provide for the amount, collection and enforcement of the assessment; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known as the "Alabama Dairy Promotion Act."

**Section 2.** (a) It is hereby declared and the legislature hereby finds that:

(1) Dairy products are basic foods that are a valuable part of the human diet;

(2) The production of dairy products plays a significant role in the state's economy, the milk from which dairy products are manufactured is produced by milk producers and dairy products are consumed by thousands of people throughout the state and the United States;

(3) Dairy products must be readily available and marketed efficiently to ensure that the people of the state receive adequate nourishment;

(4) The maintenance and expansion of existing markets for dairy products are vital to the welfare of milk producers and those concerned with marketing, using and producing dairy products, as well as to the general economy of the state;

(5) Dairy products move in intrastate, interstate and foreign commerce;

(6) The Ninety-eighth Congress of the United States enacted the Dairy Production Stabilization Act of 1983 and established the National Dairy Board (7 U.S.C. 4501 et seq.) authorizing the establishment of orderly procedures for financing promotional and educational programs for milk and dairy products through a mandatory fifteen cents (\$0.15) per hundredweight assessment on all milk produced in the United States for commercial use, and the carrying out of a coordinated program of promotion designed to strengthen the dairy industry's position in the market place, and authorizing such orderly procedures to permit a milk producer or a producer's cooperative to establish that the producer is participating in active, ongoing qualified state or regional dairy product promotion or nutrition education programs intended to increase consumption of milk and dairy products generally, to receive credit in determining the assessment due from such producer for contributions to such state programs in an amount not in excess of ten cents (\$0.10) per hundredweight of milk marketed; and

(7) The American Dairy Association of Alabama has been designated by the Secretary of Agriculture of the United States Department of Agriculture as a qualified promotional organization pursuant to the terms of the Dairy Production Stabilization Act of 1983 (7 U.S.C. Section 4501 et seq.).

(b) It, therefore, is declared to be the policy of the Legislature that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this act, of an orderly procedure for financing (through assessments on all milk produced in the state for commercial use) and carrying out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the

state and the United States. All funds obtained by the state ADA as a result of the passage of this act shall be exclusively utilized to promote the dairy industry within the State of Alabama, and its contiguous states. Nothing in this act may be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.

**Section 3.** The following terms shall have the following meanings unless the context shall provide otherwise:

- (a) "State" means the State of Alabama;
- (b) "Milk" means any class of cow's milk produced in the state;
- (c) "Dairy products" means products manufactured for human consumption which are derived from the processing of milk and includes fluid milk products;
- (d) "Fluid milk products" means those dairy products normally consumed in liquid form.
- (e) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative association, or any other entity;
- (f) "Producers" means any person engaged in the production of milk for commercial use;
- (g) "Promotion" means actions such as paid advertising, sales promotion and publicity to advance the image and sales of and demand for dairy products;
- (h) "Nutrition education" means those activities intended to broaden the understanding of sound nutritional principle including the role of milk and dairy products in a balanced diet;
- (i) "State ADA" means the American Dairy Association of Alabama, an affiliated member organization of Southeast United Dairy Industry Association;
- (j) "Southeast United Dairy Industry Association" means a regional dairy promotion organization coordinating regional dairy promotion activities in the Southeast United States.
- (k) "Dairy division" means a division of the Alabama Farmers Federation composed of all Alabama dairy farmers.
- (l) "Bulk tank unit" means a bulk tank unit as defined in accordance with the State Board of Health, Dairy Inspection Division;
- (m) "Handler" means any person engaged in the business of distributing, marketing, or in any manner handling fluid milk or dairy products, in whole or in part, for consumption;

(n) "National Dairy Board" means the National Dairy Promotion and Research Board established under 7 U.S.C. 4504, as amended;

(o) "Act" shall mean the Alabama Dairy Promotion Act; and

(p) "Cooperative association" means any cooperative marketing association of producers which is organized under the provisions of the act of Congress of February 18, 1922, known as "Capper-Volstead Act."

**Section 4.** No association, meeting or activity undertaken pursuant to the provisions of this act and intended to benefit all of the producers and handlers of milk and dairy products in Alabama shall be deemed or considered illegal or in restraint trade.

**Section 5.** It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers and handlers of milk and dairy products shall be permitted by referendum to be held among producers in the state and subject to the provisions of this act, to levy upon themselves an assessment on such milk produced in the state, for the purpose of financing or contributing towards the financing of a program of promotion and nutrition education designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and use for fluid milk and dairy products produced in the state and the United States. It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that the state ADA conduct the referendum in coordination with the Alabama Farmers Dairy Division in accordance with the provisions of this act and the Federal Dairy Promotion Program codified in 7 U.S.C. 4501, et seq.

**Section 6.** (a) With respect to any referendum conducted under the provisions of this act, the state ADA and Alabama Farmers Dairy Division shall, before calling and announcing such referendum, fix, determine and publicly announce at least thirty (30) days before the date determined upon for such referendum, the date, hours and polling places for voting in such referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by the producers, and the general purposes to which said amount so collected shall be applied. No annual assessment levied under the provisions of this act shall exceed the federally mandated fifteen cents (\$0.15) per hundredweight of milk produced; however, an amount not to exceed ten cents (\$0.10) per hundredweight of milk produced shall be credited to the state ADA for dairy product promotion and nutrition education programs.

(b) As an alternative method of conducting a referendum under the provisions of this act, the state ADA and Alabama Farmers Dairy

Division in its discretion may conduct the referendum by a mail ballot as herein provided. In the event that a decision is made to conduct a mail ballot, public notice of said mail ballot shall be made at least thirty (30) days before the date of said referendum. Said notice shall contain the same information required by subsection (a) of this section except that the notice will also state that the ballot is to be conducted by mail rather than at polling places. The notice shall also state that official ballots are being mailed on a date specified in the notice to all bulk tank units known by the state ADA and Alabama Farmers Dairy Division to be eligible to vote and that any bulk tank unit not receiving by mail an official ballot by a date specified in the notice will have ten (10) days thereafter to apply for an official ballot at the office of the state ADA. The notice shall state the deadline for the receipt of all ballots and the address of the state ADA.

(c) Official ballots shall be prepared by the state ADA and Alabama Farmers Dairy Division and mailed by first class mail to the last known address of all bulk tank units known to be eligible to vote. As announced in the public notice, said ballots shall be made available for a period of not less than ten (10) days, to those who are eligible to vote in said referendum and did not receive a ballot by mail.

(d) Before any bulk tank unit shall receive an official ballot, he shall furnish such proof as the state ADA and Alabama Farmers Dairy Division service may require of his eligibility to vote in said referendum. The state ADA shall keep a list of those bulk tank units who receive official ballots. No bulk tank unit may receive more than one (1) official ballot unless the bulk tank unit proves to the satisfaction of the state ADA and Alabama Farmers Dairy Division service that the ballot has been lost or destroyed.

(e) No votes shall be counted which are not on official ballots. To be eligible to be counted, ballots must be received by the state ADA at the place and by the deadline previously announced in the public notice of said referendum.

**Section 7.** The arrangements for management and supervision of any referendum conducted under the provisions of this act shall be under the direction of the state ADA in cooperation with the Alabama Farmers Dairy Division of each county in the state, and any and all expenses in connection therewith shall be borne by the state ADA.

**Section 8.** Any referendum conducted under the provisions of this act shall be held on a statewide basis. In such referendum, the bulk tank units eligible for participation shall vote upon the question of whether or not there shall be levied an annual assessment for a

period of five (5) years in the amount set forth in the call for such referendum.

**Section 9.** If in such referendum called under the provisions of this act, a simple majority of the bulk tank units eligible to participate and voting therein shall vote in the affirmative and in favor of the levying and collection of such assessment proposed in such milk referendum covered thereby, then such assessment shall be collected in the manner determined and announced by the state ADA.

**Section 10.** In the event such referendum to be conducted as herein provided shall not be supported by a majority of those eligible for participation and voting therein, then the state ADA and Alabama Farmers Dairy Division conducting the said referendum shall have the full power and authority to call another referendum for the purposes herein set forth in the next succeeding year, on the question of an annual assessment for five (5) years.

**Section 11.** Referendum date, hours, voting places, rules and regulations with respect to the holding of such referendum shall be published by the state ADA and Alabama Dairy Farmers Federation service through the medium of the public press in the state at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to all dairy-related organizations within the state and to each county extension agent and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of this act.

**Section 12.** The state ADA and Alabama Farmers Dairy Division shall likewise prepare and distribute in advance of such referendum all necessary ballots for the purposes thereof, and shall, under rules and regulations promulgated, arrange for the necessary poll holders for conducting the said referendum; and following such referendum and within ten (10) days thereafter shall canvass and publicly declare the result of such referendum.

**Section 13.** (a) In conducting any referendum under this act, the state ADA and Alabama Farmers Dairy Division shall consider the approval or disapproval by any cooperative association engaged in a bona fide manner in marketing milk or the dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers.

(b) In order to be eligible to vote in a referendum, a cooperative association must:

(1) Certify to the state ADA and Alabama Farmers Dairy Division in conjunction with casting its ballot, that the association is

organized under the provisions of the "Capper-Volstead Act" and that it is engaged in a bona fide manner in marketing its members' milk or dairy products;

(2) Certify to the state ADA and Alabama Farmers Dairy Division in conjunction with casting its ballot, the number of bulk tank units on whose behalf the cooperative association is casting a ballot, that such bulk tank units are members of or under contract with the cooperative association and that the association was engaged during the representative period in marketing the milk of each of the bulk tank units for whom the cooperative association claims the right to vote;

(3) Furnish to the state ADA and Alabama Farmers Dairy Division in conjunction with casting its ballot, a copy of the resolution authorizing the casting of the ballot;

(4) Certify to the state ADA and Alabama Farmers Dairy Division in conjunction with casting its ballot, that the cooperative association has complied with the requirements of subsection (c) of this section; and

(5) Agree to make available to the state ADA and Alabama Farmers Dairy Division necessary records and information pertaining to the representative period to validate the eligibility of the cooperative association to vote and to verify the number and identity of the producers on whose behalf the cooperative association claims the right to vote.

(c) Not later than thirty (30) days prior to the beginning of the referendum, each cooperative association shall notify the state ADA and Alabama Farmers Dairy Division as to whether or not the association intends to vote on behalf of its bulk tank units.

**Section 14.** (a) In the event a majority of the bulk tank units eligible for participation in such referendum and voting therein shall vote in favor of such assessment, then the said assessment shall be collected monthly for the number of years set forth in the call for such referendum, and the collection of such assessment shall be under such method, rules and regulations as may be determined by the state ADA conducting the same; and the said assessment so collected shall be paid into the treasury of the state ADA to be used together with other funds from other sources. Funds to be collected pursuant to a referendum conducted under this act shall be withheld and paid by each handler, including producer handlers, to the state ADA by the last calendar day of the month succeeding the month in which the milk was received by the handler.

(b) In the event of a failure to pay part or all of an assessment levied pursuant to this act, the Attorney General of the state shall,

upon the request of the state ADA, enforce the provisions of this act and collect such monies for payment to the state ADA. In the alternative to requesting the Attorney General to enforce the provisions of this act, the state ADA may bring a civil action to collect assessment from a handler failing to pay such assessments. A handler found to have failed to pay assessments pursuant to this act shall also be liable for reasonable attorney's fees and costs in the collection of such assessments.

**Section 15.** In the event such referendum is carried in the affirmative and the assessment is levied and collected as provided herein and under the regulations to be promulgated by the state ADA, any bulk tank unit upon and against whom such assessments shall have been levied and collected under the provisions of this act, if a bulk tank unit is dissatisfied with said assessment and the result thereof, such unit shall have the right to demand the treasurer of the state ADA to refund such assessment so collected from such bulk tank unit, provided such demand for refund is made in writing within thirty (30) days from the date on which said assessment is collected or due to be collected, whichever is earlier, from such bulk tank unit under the rules and regulations of the state ADA. Pursuant to the Dairy Promotion Stabilization Act of 1983, 7 U.S.C. Section 4510 et seq., any such funds shall be transferred to the National Dairy Board by the treasurer of the state ADA.

**Section 16.** In the event of the levying and collection of assessments as herein provided, the treasurer of the state ADA conducting same shall, within ninety (90) days after the end of any calendar year in which such assessments are collected, have available upon written request by a producer, or Alabama Farmers Dairy Division or other agency of the state, a statement of the amount or amounts so received are collected by him under the provisions of this act.

**Section 17.** The date of any initial referendum authorized under the provisions of this act shall be set on or before June 1, 1990.

**Section 18.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:58 P.M.

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Act No. 90-585

H. 272—Rep. Mikell

### AN ACT

To amend Section 13A-7-29, Code of Alabama 1975, which provides for the offense of criminal littering, so as to provide further for the distribution of fines for violations.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 13A-7-29, Code of Alabama 1975, is hereby amended to read as follows:

“§13A-7-29.

“(a) A person commits the crime of criminal littering if he:

“(1) Knowingly deposits in any manner litter on any public or private property or in any public or private waters, having no permission to do so; or

“(2) Negligently deposits in any manner glass or other dangerously pointed or edged objects on or adjacent to water to which the public has lawful access for bathing, swimming or fishing, or on or upon a public highway, or within the right of way thereof; or

“(3) Discharges sewage, oil products or litter from a watercraft vessel of more than 25 feet in length into a river, inland lake or stream within the state or within three miles of the shoreline of the state; or

“(4) a. Drops or permits to be dropped or thrown upon any highway any destructive or injurious material and does not immediately remove the same or cause it to be removed; or

“b. Removes a wrecked or damaged vehicle from a highway and does not remove glass or other injurious substance dropped upon the highway from such vehicle.

“(b) ‘Litter’ means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris or any foreign substance of whatever kind and description, and whether or not it is of value.

“(c) It is no defense under subsections (a)(3) and (a)(4) of this section that the actor did not intend, or was unaware of, the act charged.

“(d) Criminal littering is a Class C misdemeanor; however, the minimum fine shall be one hundred dollars (\$100.00).

“(e) The fine from such conviction shall be awarded and distributed by the court to the municipal, and/or county, and/or state general fund, following a determination by the court of whose law enforcement agencies or departments have been a participant in the arrest resulting in the fine. Such award and distribution shall be made on the basis of the percentage as determined by the court, which the respective agency or department contributed to the police work resulting in the arrest, and shall be spent by the governing body on law enforcement purposes only.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:59 P.M.

Act No. 90-586

S. 662—Senator Foshee

### AN ACT

To amend Section 25-4-54 (effective January 1, 1991), of the Code of Alabama 1975, relating to unemployment compensation rates for contributory employers, so as to provide further for such rates.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 25-4-54 (effective January 1, 1991), Code of Alabama 1975, is hereby amended to read as follows:

“§25-4-54. (Effective January 1, 1991)

“(a) Determination of contribution rates.

“(1) For the 12-month period beginning on January 1 of each year which begins after December 31, 1990, any employer whose experience rating account has been subject to benefit charges throughout at least the fiscal year, as defined in section 25-4-4, immediately preceding such January 1, shall have his rate determined by the unemployment compensation fund’s liability for benefits paid to his employees, modified by the fund’s balance as of the most recent September 30. The employment record of an organization which has been making payments in lieu of contributions but which elects to change to payment of contributions shall be deemed to have been chargeable with benefits throughout the period (not to exceed three fiscal years) with respect to which it was making payments in lieu of contributions and its benefit charges and payrolls for such period shall be used in computing its benefit ratio pursuant to subsection (d) of this section.

“(2) For the 12-month period beginning on January 1 of each calendar year which begins before January 1, 1991, the rates of contribution shall be determined as was prescribed by this section prior to said January 1, 1991.

“(b) Determination of individual benefit charges.

“(1) An individual’s ‘benefit charges’ shall be as follows:

“a. For each week benefits are paid, an individual’s ‘benefit charges’ shall be equal to the amount of benefits he was paid for such week.

“b. For each week extended benefits pursuant to section 25-4-75 are paid to an individual, the ‘benefit charges’ shall be equal to the state’s share of such benefits paid to him for such weeks; provided, however, where an individual’s ‘benefit charges’ for extended benefits are attributable to service in the employ of any governmental entity, as defined in paragraph (a)(2)b of section 25-4-10, the individual’s ‘benefit charges’ shall be an amount equal to the benefits he was paid for such week.

“(2) Any benefits paid to an individual based on wages paid to an employee during his base period for part-time employment by an employer who continues to give the employee employment to the same extent while he is receiving benefits as he did during his base period shall not be determined to be the individual’s benefit charges. The employer shall establish the continuation of work to the satisfaction of the director by submitting such information as the director may require within the time required by other provisions of this chapter after the date of notification or mailing of notice by the director that the employee has first filed a claim for benefits.

“(3) If benefits paid to an individual are based on wages paid by two or more employers, the amount of the individual’s benefit charges applicable to any one employer shall be an amount which bears the same ratio to the total benefit charges as the total base period wages paid by such employer to the individual and used for the payment of benefits bears to the total base period wages paid to the individual by all his base period employers and used for the payment of benefits.

“(4) When, in the determination of any individual’s benefits, wages have been properly included once for one benefit year or for one base period, such wages shall not thereafter be included again in the computation of his benefits for any other benefit year or in his wages for any other base period respectively.

“(c) Determination of employer benefit charges.

“(1) An employer’s benefit charges for each and every fiscal year shall be the total of the regular benefits and the state’s share of the extended benefits paid during such fiscal year to all of his employees or former employees which are attributable to wages paid by such employer to his employees or former employees; except as is provided by paragraph 25-4-51(a)(5)a for governmental entities.

“(2) The director shall analyze the benefit payments in each fiscal year and determine each employer’s benefit charges for each fiscal year.

“(3) The director shall, after the close of each calendar quarter, furnish each employer with a statement of the benefits paid to his workers, or former workers, which became his benefit charges in that calendar quarter, together with the names of such workers, or former workers, and such statement, in the absence of an application for a revision thereof within 90 days of the mailing of such statement to the employer’s last known address, shall be conclusive and final upon the employer for all purposes and in all proceedings whatsoever. Such application for revision shall be in the form and manner prescribed by regulation of the director. Upon receipt of, within the time allowed, an application for revision of such statement, the director shall allow such application in whole or in part, or shall deny such application and shall serve notice upon the employer of such decision. Such decision of the director shall be final and conclusive on the employer at the expiration of 30 days from the date of service of such notice, unless the employer shall within the said 30-day period file with the director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition the director shall fix a time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the decision of the director shall be prima facie correct, and the burden shall be upon the protesting employer to prove it is incorrect. No employer shall have the right to object to the benefit charges with respect to any worker as shown on such statement, unless he shall first show that such charges arose as a result of benefits paid to such worker in accordance with a determination, or a redetermination, to which such employer was a party entitled to notice thereof, as provided by article 5 of this chapter, and shall further show that he was not notified of such determination or redetermination in accordance with the requirements of said article 5 of this chapter. Nothing herein contained shall affect the right of any employer at such hearing to object to such statement of benefit charges on the ground that it is incorrect by reason of a clerical error made by the director or any of his employees. The employer shall be promptly notified by mail of the director’s decision. Such decision shall be final and conclusive unless an appeal is taken therefrom in the manner and within the time prescribed in subsection (h) of this section.

“(4) Nothing contained in subdivision (3) of this subsection (c) shall be construed as limiting or affecting in any manner the right and authority of the director to remove benefit charges from any employer’s account upon discovering or being aware of any such employer’s workers or former workers having drawn benefits by reason of false representations of their earnings while filing claims for benefits

nor to make any corrections resulting from any adjustment to benefits paid to the individual.

“(5) Any Alabama unemployment compensation benefits paid to any claimant under the following conditions shall not be charged to the account of a contributory base period employer(s) for the state fiscal year ending September 30, 1990, if:

“1. The benefits are paid for unemployment due directly to a major natural disaster, and

“2. The President has declared the event a disaster pursuant to the Disaster Relief Act of 1970, 42 USCA 4401, et seq., as amended, and

“3. The benefits are paid from the Alabama U.I. Trust Fund to claimants who would have been eligible for disaster unemployment assistance under this act, if they have not first received Alabama unemployment insurance benefits with respect to their unemployment.

“(d) Determination of employer benefit ratio. Effective January 1, 1991, and each year thereafter, the benefit ratio of each employer who qualifies for a rate determination under subdivision (a) (1) of this section and has been chargeable with benefits throughout the three most recent preceding fiscal years shall be a percentage obtained by dividing the total of his benefit charges for such three-year period by that part of his total taxable payroll for the same three-year period with respect to which contributions have been paid on or before October 31, next following such period, and the benefit ratio of each employer who qualifies for a rate determination under subdivision (a) (1) of this section, but who has not been subject to this chapter for a period of time sufficient to have been chargeable with benefits throughout the three most recent preceding fiscal years, shall be a percentage obtained by dividing the total of his benefit charges for the period throughout which he has been chargeable, such period to be not less than the most recent preceding fiscal year, by that part of his total taxable payroll for the same period with respect to which contributions have been paid on or before October 31 next following such period. The employer's benefit ratio shall be computed to the fourth decimal and be used in determining each employer's contribution rate as prescribed in subsection (a) of this section for the next calendar year; except that:

“For tax rate year beginning January 1, 1991, the employer's benefit ratio shall be determined by the employer's actual benefit charges to his account for the fiscal year ending September 30, 1990, and for fiscal years ending September 30, 1988, and September 30, 1989, the employer's benefit charges shall be determined from data accumulated by the director during such years relative to benefit

wage charges and converted to benefit charges, in such manner as the director shall prescribe.

“(e) Shared costs.

“(1) For the purposes of this subsection (e) and for the determination of an employer's rate of contribution pursuant to subsection (f), ‘shared’ or ‘socialized’ cost for each fiscal year is defined to be:

“a. Benefit charges which cannot be effectively assigned to an individual employer's experience rating account during such fiscal year because of the employer becoming inactive (in accordance with section 25-4-130); and

“b. The difference between the benefit charges of all employers assigned a maximum rate of contribution under any one of the rate schedules for such fiscal year and the amount of contributions received from all such maximum rated employers during a fiscal year; and

“c. Credits granted employers during such fiscal year because of the reason for separation (as provided in section 25-4-78), continued part-time work [as provided by subdivision (b)(2) of this section] and relief from charges granted an employer under the provisions of subdivision (c)(4) of this section; and

“d. Benefit overpayments which have been declared uncollectible or have been waived by the director during the fiscal year pursuant to the applicable provisions of this chapter; and

“e. Contributions due from employers but not paid and which have been, during such fiscal year, declared uncollectible by the bankruptcy courts or official action by the director.

“f. Cost resulting from the relief of charges for contributory employers under Section 25-4-54(c) (5) will be included in shared cost as defined in this section.

“(2) The total of the amounts determined under the provisions of subdivision (1) above shall be the statewide total shared cost for any fiscal year.

“(3) Net shared costs for any fiscal year shall be the statewide total of shared costs for that fiscal year reduced (but not below zero) by the amount of:

“a. Interest received by the fund from the U. S. Treasury during such fiscal year; and

“b. Contributions collected from employers who, during such fiscal year, or any part thereof, were assigned the minimum rate of contributions, under any of the rate schedules, which exceed the total of all benefit charges made to all such minimum rated employers during such fiscal year.

“(4) To determine the ‘shared cost ratio’ for any fiscal year, the net shared cost for such fiscal year shall be divided by the statewide total of taxable wages for the same fiscal year which have been reported by all contributory employers and upon which contributions have been timely paid (reduced by the total of the taxable wages reported and timely paid on by any employer or employers for the same fiscal year, who by the provisions of subdivision (5) of this subsection (e) are relieved of the shared cost assessment). The resulting quotient adjusted to the nearest multiple of one-thousandth shall be the ‘shared cost ratio’ applicable for assessment to all contributory employers for the next following calendar year.

“(5) a. Except as is hereinafter provided, the shared cost ratio as computed under the above provision for each fiscal year shall, for the next calendar year, be assessed each employer eligible for a rate determination under the provision of subdivision (a) (1) of this section, in addition to the rate of contributions determined by the tables contained in subsection (f) of this section.

“1. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule A for a calendar year, shall be relieved of any shared cost assessment during that calendar year;

“2. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule B for a calendar year and whose experience rating account has not been charged with any benefits during the three immediately preceding fiscal years, shall be relieved of any shared cost assessment for that calendar year;

“3. No relief shall be granted to any employer for any portion of the shared cost assessment for a calendar year when either Schedule C or D is in effect.

“b. The assessment for shared costs shall become due and payable at the same time and in the same manner as contributions.

“c. The authority of the director to enforce collection of any shared cost assessment shall be the same as is provided in this chapter for the enforcement of the collections of contributions.

“(f) Notice of contribution rate, etc.; maximum rate. The contribution rates (expressed as a percentage of taxable wages) for each employer, as provided in subsection (a) of this section, shall be determined by the director and the director shall notify each employer of his benefit ratio and his contribution rate within 30 days after the effective date of such rate. Such employer contribution rate for the tax rate year beginning January 1, 1991, shall be determined from the appropriate rate schedule prescribed for that tax rate year by the provisions of subsection (g) of this section and shall be the

rate which appears on the same horizontal line on which is found the employer's benefit ratio.

### TAX RATE TABLE

LINE NO.	IF THE EMPLOYER'S BENEFIT RATIO IS:					EMPLOYER TAX RATE SCHEDULE:			
						A	B	C	D
1	0.00 - 0.39	0.20	0.35	0.50	0.65				
2	0.40 - 0.59	0.35	0.50	0.65	0.80				
3	0.60 - 0.79	0.50	0.70	0.90	1.00				
4	0.80 - 0.99	0.70	0.90	1.10	1.20				
5	1.00 - 1.19	0.85	1.10	1.30	1.40				
6	1.20 - 1.39	1.00	1.30	1.55	1.65				
7	1.40 - 1.59	1.15	1.50	1.75	1.90				
8	1.60 - 1.79	1.30	1.70	1.95	2.15				
9	1.80 - 1.99	1.45	1.90	2.15	2.40				
10	2.00 - 2.19	1.60	2.10	2.40	2.65				
11	2.20 - 2.39	1.75	2.30	2.60	2.85				
12	2.40 - 2.59	1.90	2.50	2.80	3.10				
13	2.60 - 2.79	2.05	2.70	3.05	3.35				
14	2.80 - 2.99	2.20	2.90	3.25	3.60				
15	3.00 - 3.19	2.35	3.10	3.50	3.85				
16	3.20 - 3.59	2.50	3.40	3.80	4.20				
17	3.60 - 3.99	2.80	3.80	4.25	4.70				
18	4.00 - 4.39	3.10	4.20	4.70	5.20				
19	4.40 - 4.79	3.40	4.60	5.10	5.70				
20	4.80 - 5.19	3.70	5.00	5.50	6.20				
21	5.20 - 5.59	4.00	5.40	6.00	6.70				
22	5.60 - 5.99	4.30	5.40	6.00	6.70				
23	6.00 - 6.39	4.60	5.40	6.10	6.80				
24	6.40 - 6.79	4.90	5.40	6.10	6.80				
25	6.80 - 7.19	5.20	5.40	6.10	6.80				
26	7.20 or over	5.40	5.40	6.10	6.80				

"The provisions of this subsection (f) to the contrary notwithstanding, the rates of contribution shall, after having been determined as herein prescribed, be adjusted as follows for calendar years beginning after December 31, 1988 and ending prior to January 1, 1992:

If the rate of contribution specified by the Tax Rate Table contained in this section is:

The employer's contribution rate shall be:

0.20  
0.35  
0.50

0.14  
0.29  
0.44



0.65	0.59
0.70	0.64
0.80	0.74
0.85	0.79
0.90	0.84
1.00	0.94
1.10	1.04
1.15	1.09
1.20	1.14
1.30	1.24
1.40	1.34
1.45	1.39
1.50	1.44
1.55	1.49
1.60	1.54
1.65	1.59
1.70	1.64
1.75	1.69
1.90	1.84
1.95	1.89
2.05	1.99
2.10	2.04
2.15	2.09
2.20	2.14
2.30	2.24
2.35	2.29
2.40	2.34
2.50	2.44
2.60	2.54
2.65	2.59
2.70	2.64
2.80	2.74
2.85	2.79
2.90	2.84
3.05	2.99
3.10	3.04
3.25	3.19
3.35	3.29
3.40	3.34
3.50	3.44
3.60	3.54
3.70	3.64
3.80	3.74
3.85	3.79
4.00	3.94
4.20	4.14
4.25	4.19

4.30	4.24
4.60	4.54
4.70	4.64
4.90	4.84
5.00	4.94
5.10	5.04
5.20	5.14
5.40	5.40
5.50	5.44
5.70	5.64
6.00	5.94
6.10	6.04
6.20	6.14
6.70	6.64
6.80	6.74

“The adjustment in rates of contributions as are herein provided shall apply only to those employers who are required to pay contributions by the provisions of section 25-4-51 and those nonprofit organizations, hospitals, educational institutions, agencies of the state of Alabama and political subdivisions of the state who have, under the option permitted by section 25-4-51, for that calendar year elected to pay contributions. The adjustment shall not apply to any employer who, because of insufficient unemployment experience, has not become eligible to have his rate of contribution determined by the method prescribed under this subsection (f); whose rate of contribution is determined to be 5.4%, or is above 5.4% and by the application of the adjustment would become a rate less than 5.4%; and all employers who being eligible for such option have elected the option to make payments in lieu of contributions.

“(g) Determination of contribution rate schedule. Contribution rates for each employer, determined pursuant to subsection (f) of this section, shall nevertheless be subject to the contribution rate schedule as is hereinafter provided.

“(1) The ‘benefits payroll ratio’ of the state for each fiscal year shall be determined by dividing the total of benefits paid, including the state’s portion of benefits paid under any extended benefit program, from the unemployment compensation fund within the preceding fiscal year, less any benefits paid for which payments in lieu of contributions have been paid or are currently due to be paid, by the statewide total payrolls of all employers upon which contributions on the taxable portion thereof have been paid during the same fiscal year, and by adjusting the quotient to the nearest multiple of one-thousandth.

“(2) The desired level of the unemployment compensation fund for each fiscal year shall be one and four-tenths times the amount

determined by multiplying the highest statewide total of payrolls of all employers upon which contributions on the taxable portion thereof have been paid during any one of the three most recent preceding fiscal years by the highest benefits payroll ratio for any one of the 10 most recent preceding fiscal years.

“(3) The director shall, on or before the December 1 next following the end of each fiscal year, declare effective for the 12-month period beginning with January 1 of the immediately succeeding calendar year, the desired level of the fund and the schedule to be in effect for that 12-month period. The contribution rate for each employer for the next calendar year shall be determined by the director as provided in subsection (f) of this section on the basis of each employer’s benefit ratio as determined under the provisions of subsection (d) of this section; and whenever at the end of any fiscal year, the fund balance is:

“a. One hundred twenty-five percent or more of the desired level computed for the fiscal year, contribution rates shall be determined under Schedule A;

“b. Equal to the desired level but is less than 125% thereof, contribution rates shall be determined under Schedule B.

“c. Less than the desired level but is at least 70% thereof, contribution rates shall be determined under Schedule C.

“d. Less than 70 percent of the desired level, contribution rates shall be determined under Schedule D;

“(4) Any amount credited to this state’s account under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be included in the trust fund balance in determining whether or not such fund is greater or less than the desired level of the fund for a fiscal year; except, that any amount appropriated and withdrawn which will not be repaid to the fund shall not be included in such balances.

“(5) The director shall notify each employer of such declaration and of his benefit ratio and his contribution rate within 30 days after each such January 1. This subdivision (5) shall not apply to employers who, in lieu of contributions, reimburse the fund for benefits paid.

“(h) Review of contribution rate, etc. Any employer may apply to the director for and shall be entitled to a review as to the determination of his benefit ratio and his contribution rate as fixed by his benefit ratio, provided such application is filed within 30 days of the date of the mailing by the director to the employer of the

notice of such determination. Pending such review, such employer shall make all contribution payments otherwise required by this chapter at contribution rates fixed by the determination sought to be reviewed and resulting overpayments or underpayments of contributions by the employer shall, upon any redetermination, be adjusted or refunded pursuant to section 25-4-137. Any employer may within 30 days after the date of mailing by the director to such employer of notice of the ruling of the director upon such application for review appeal such ruling to the circuit court of any county wherein the employer is engaged in doing business, upon such terms and upon giving such security for costs as the court may upon application prescribe. Trial in that court shall be de novo with respect to his benefit ratio.

“(i) Contribution rate, etc., of successor employer. For the purpose of this section, an employer's benefit charges and that part of his taxable payroll with respect to which contributions have been paid, shall be deemed benefit charges and taxable payrolls of a successor employer and shall be taken into account in determining the contribution rate of such successor employer as provided in subsection (f) of this section, if such successor succeeds the employer in any of the manners set out in paragraph (a) (4) a of section 25-4-8; provided, that an employer subject to this chapter who becomes such in any of the manners set out in paragraph (a) (4) b of section 25-4-8 may have that portion of his predecessor's benefit charges and that part of his predecessor's total taxable payroll, with respect to which contributions have been paid which correspond to the segregable portion of the business assets and payroll thereof, acquired from his predecessor, deemed to be his benefit charges and his payroll and such shall be taken into account in determining his rates, as provided in subsection (f) of this section; provided, that he:

“(1) Makes written application within 90 calendar days from the date of such acquisition; and

“(2) Furnishes to the director within 120 calendar days from the date of such acquisition a transcript of such total and taxable payrolls which correspond to the segregable portion acquired from his predecessor; provided further that in the event that within the intervening 120 days a notice of his rate of contribution has been mailed to the partial successor, the 30-day finality provision set forth in subsection (h) of this section shall not prevail but, instead, be effective with respect to the subsequent notice computed on the basis of the benefit ratio and taxable payrolls of the acquired segregable portion.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 19, 1990

Time: 2:53 P.M.

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Act No. 90-587

H. 200—Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama League for the Advancement of Education for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Alabama League for the Advancement of Education for the fiscal year ending September 30, 1991, the sum of one hundred fifteen thousand dollars (\$115,000), out of the funds in the Alabama Special Educational Trust Fund.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Passed the Governor's veto to the contrary notwithstanding, on April 23, 1990.

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Act No. 90-588

H. 992—Rep. Harper

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to authorize the county commission of Mobile County to establish and maintain fire fighting districts with such county; to enter into agreements with volunteer fire departments within such county for fire protection and services; to set fees for fire protection services and to prescribe the manner of collection and distribution of such fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The county commission of Mobile County is hereby authorized to establish and maintain fire fighting districts within Mobile County. The county commission is further authorized to enter into agreements with volunteer fire departments within the county for fire protection and services. The county commission is hereby empowered to set fees for fire protection and to prescribe the manner of collection and distribution of such fees. The fire fighting districts herein authorized shall not include any corporate municipality of Mobile County unless such municipality requests through resolution of its governing body to be included in such fire fighting program. Any act heretofore enacted regarding said Mobile County fire fighting districts is hereby ratified and confirmed.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Mobile County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House April 10, 1990

Passed the Senate April 23, 1990

Act No. 90-589

H. 890—Reps. Higginbotham and Turnham

### AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, providing for disposal fees on certain solid waste disposed of in Lee County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The Lee County Commission, in addition to any other fee or charge imposed on solid waste, as defined by general law, disposed of at any commercial disposal site in the county, shall levy and impose a fee of not less than \$5.00 per ton on such solid waste generated in another state and a fee of not less than \$2.50 per ton on such solid waste generated in another county of the state. Said county commission is hereby authorized to promulgate and implement such rules and regulations as it deems necessary to impose and collect such disposal fees. The proceeds of such fees shall be deposited in the county general fund to be used for the general operations of the county.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Lee County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House April 3, 1990

Passed the Senate April 23, 1990

Act No. 90-590

H. 144—Rep. Venable

### AN ACT

Proposing a constitutional amendment, pursuant to Amendment 425 of the Constitution of 1901, relating to Coosa County and the manner and method of compensating associate county commissioners, and providing for the election thereon.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

#### PROPOSED AMENDMENT

The legislature may, from time to time, by local laws, establish the qualifications of any Coosa County associate commissioner, the duties, powers, compensation and method for payment of such compensation, allowances or fees, at or below that required by general law for associate county commissioners of Coosa County, pursuant to Act No. 88-725, H. 181, First Special Session, 1988.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Coosa County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

#### CONSTITUTIONAL AMENDMENT

Passed the House January 23, 1990

Passed the Senate April 23, 1990

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Act No. 90-591

H. 143—Rep. Venable

#### AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, providing for the election of the members of the board of education in the City of Tallassee, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of



the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The legislature may by local act provide for the election of the members of the board of education of the City of Tallassee in Elmore and Tallapoosa counties.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Elmore and Tallapoosa counties. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House January 18, 1990

Passed the Senate April 23, 1990

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Act No. 90-592

H. 919—Rep. Logan

### AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide for the establishment of an agriculture and exhibit center in Marion County; and authorizing the Marion County Commission to expend public money for such purpose.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

The legislature may hereafter, from time to time, by local law, provide for the establishment and maintenance of an agriculture and

exhibit center in Marion County and to that end, may authorize the issuance of bonds and may authorize the Marion County Commission to expend or grant public money for that purpose.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Marion County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House April 3, 1990

Passed the Senate April 23, 1990

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Act No. 90-593

H. 988—Rep. McMillan

### AN ACT

To propose a constitutional amendment relating to Baldwin County, authorizing the county commission to: (1) levy, administer, collect and enforce additional county license taxes and registration fees on motor vehicles; (2) provide for the distribution of the proceeds of said taxes and fees; and (3) provide for exemptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

In Baldwin County, in addition to all other taxes, licenses and fees of every kind now imposed by law, the county commission shall have the power to: (1) levy, collect and enforce additional county license taxes and registration fees on motor vehicles in an amount

not to exceed \$8.50 upon each motor vehicle; (2) provide for the distribution of the proceeds of said taxes and fees for any purpose, including payment of any existing bonded indebtedness, but not for creating any new indebtedness, bonded or otherwise; and (3) provide for exemptions.

No vote by the electorate shall be necessary after the passage of this amendment to implement its provisions.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Baldwin County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

## CONSTITUTIONAL AMENDMENT

Passed the House April 5, 1990

Passed the Senate April 23, 1990

Act No. 90-594

H. 912—Reps. Haynes and Johnson (RG)

## AN ACT

Proposing an amendment to the Constitution of Alabama of 1901 to provide for the construction and maintenance of public roads and bridges under the county unit system in Talladega County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

## PROPOSED AMENDMENT

The Legislature shall, by general or local law, provide for the construction, maintenance and repair of public roads, highways, bridges

and ferries in Talladega County on the basis of the county as a unit, without regard to any district or beat lines.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 2.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 3.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Talladega County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the House March 27, 1990

Passed the Senate, as amended, April 23, 1990

House concurred in Senate amendment April 23, 1990

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Act No. 90-595

S. 636—Senator Sanders

### AN ACT

To propose an amendment to the Constitution of Alabama 1901 for Wilcox County to provide further for filling vacancies in certain county offices.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

In Wilcox County, if a vacancy occurs in the office of county commission, tax assessor, tax collector, coroner or probate judge, the vacancy shall be filled by an appointment of the county commission.

**Section 2.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next

preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 3.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Wilcox County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

### CONSTITUTIONAL AMENDMENT

Passed the Senate as amended April 4, 1990

Passed the House April 12, 1990

Act No. 90-596

H. 558—Reps. Harper and Campbell

### AN ACT

To amend Section 40-18-19 of the Code of Alabama 1975, relating to income tax exemptions, so as to provide further for exemption from state individual income tax for all United States government retirement annuities, certain private pension plans and state firefighter and peace officer retirement plans; to amend Section 40-18-20 of the Code of Alabama 1975, relating to income tax exemptions so as to exempt all payments made under any military retirement programs; to amend Section 40-18-15 of the Code of Alabama, 1975 so as to clarify the elimination of the deduction for state and local sales and use taxes to conform to federal law; to provide for statutory rulemaking authority for departmental administration of the proposed exemption; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-18-19 of the Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-19.

“(a) The following exemptions from income taxation shall be allowed to every individual resident taxpayer:

“(1) Retirement allowances, pensions and annuities, or optional allowances, approved by the board of control of the teachers’ retirement system of Alabama, which exempt status is set out in section 16-25-23;

“(2) Retirement allowances, pensions and annuities or optional allowances, approved by the board of control of the employees’ retirement system of Alabama, which exempt status is set out in section 36-27-28;

“(3) The first \$8,000.00 of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances,

received by any eligible firefighter, as defined in sections 36-32-1 and 36-32-2, or his designated beneficiary, from any firefighting agency established in the state of Alabama, but only if such retirement compensation, retirement allowances, pensions and annuities, or optional allowances as are awarded as a result of fire protection services rendered. This subdivision shall become effective for the taxable years beginning January 1, 1987, and thereafter following its passage and approval by the governor, or upon its otherwise becoming a law; provided, that for the taxable years beginning on or after January 1, 1991, all of such pension and retirement payments shall be exempt from taxation.

“(4) The first \$8,000.00 of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances received by any eligible peace officer, as defined in section 36-21-60(10), or his designated beneficiary, from any police retirement system established in the state of Alabama, but only if such retirement compensation, retirement allowances, pensions and annuities, or optional allowances are awarded as a result of police services rendered. This subdivision shall become effective for taxable years beginning January 1, 1984, and thereafter; provided, that for the taxable years beginning on or after January 1, 1991, all of such pension and retirement payments shall be exempt from taxation.

“(5) Income received as annuities under the United States retirement system from the United States government civil service retirement and disability fund including income received from the Tennessee Valley Authority's pension system, income received as annuities under the United States foreign service retirement and disability fund or income received from any other United States government retirement and disability fund;

“(6) Beginning January 1, 1991, all payments made on or after such date to a retiree or his designated beneficiary under a private “defined benefit plan,” as defined under section 414(j) of the Internal Revenue Code of 1986, as amended from time to time, to the extent such payment would be taxable for federal income tax purposes.

“(7) Net income realized by individuals and partnerships from time to time in the business of conducting financial business employing moneyed capital coming into competition with the business of national banks, but only if such individuals and partnerships are subject to an excise tax imposed by this state on or with respect to such income;

“(8) In the case of a single personal or a married person not living with husband or wife, a personal exemption of \$1,500.00 or, in the case of a head of family or a married person living with husband or wife, a personal exemption of \$3,000.00, but a husband

and wife living together shall receive only one personal exemption of \$3,000.00 against their aggregate income, and in case they make separate returns each must claim a personal exemption of \$1,500.00; and

“(9) Three hundred dollars for each person, other than husband or wife, dependent upon the taxpayer, and over half of whose support, for the calendar year in which the taxable year for the taxpayer begins, was received from the taxpayer. For the purposes of this section, “dependent” shall mean: a son or daughter of the taxpayer or a descendant of either; a stepson or stepdaughter of the taxpayer; a brother, sister, stepbrother or stepsister of the taxpayer; the father or mother of the taxpayer or an ancestor of either; a stepfather or stepmother of the taxpayer; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of the taxpayer. As used in this paragraph the terms “brother” and “sister” include a brother or sister by the half blood. For the purpose of determining whether any of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of such a person by blood.

“(b) Of the following personal exemptions allowed by resident taxpayers, each nonresident individual taxpayer shall be allowed that proportion thereof that the adjusted gross income received by said nonresident individual taxpayer from sources within the state of Alabama bears to his or her adjusted gross income received from sources within and without the state of Alabama: In the case of a single person or a married person not living with husband or wife, a personal exemption of \$1,500.00 or, in the case of a head of a family or a married person living with husband or wife, a personal exemption of \$3,000.00, a husband and wife living together shall receive but one personal exemption of \$3,000.00 against their aggregate income; and, in case they make separate returns, each must claim a personal exemption of \$1,500.00; and \$300.00 for each person, other than husband or wife, dependent upon and receiving his chief support from the taxpayer.”

**Section 2.** Section 40-18-20 of the Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-20.

“(a) The first \$4,750.00 retirement or compensation received as retirement benefit from the military services by any person retired from the military services of the United States of America and survivor benefits derived therefrom is hereby exempt from any state, county or municipal income tax or like tax whatever name called.

“(b) Effective January 1, 1983, the amount of the exemption provided for in subsection (1) of this section shall be increased to \$8,000.00.

“(c) Effective January 1, 1985, the amount of the exemption provided for in subsection (b) of this section shall be increased to \$10,000.00.”

“(d) Effective January 1, 1989, and for all successive tax years, all retirement payments or compensation recognized under this section shall be exempt.”

**Section 3.** Section 40-18-15 of the Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-15.

“(a) In computing net income, there shall be allowed as deductions:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

(2) Certain interest paid or accrued within the taxable year on indebtedness, but, in the case of a nonresident, the proportion of such interest which the amount of gross income from sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama. Beginning with all tax years or periods beginning after December 31, 1987, the interest deductions allowed in each of such tax years or periods shall be limited to the amount allowable as an interest deduction for federal income tax purposes in the corresponding tax year or period pursuant to the provisions of 26 USC 163, as such federal tax statute exists as of October 1, 1988.

(3) The following taxes paid or accrued within the taxable year:

a. Income taxes, Federal Insurance Contribution Act taxes, taxes on self-employment income and estate and gift taxes imposed by authority of the United States or any possession of the United States; provided, that the amount of such taxes apportioned by a nonresident taxpayer shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.



b. State and local, and foreign, occupational license taxes and contributions to state unemployment funds.

c. State and local, and foreign, real property taxes.

d. State and local personal property taxes.

e. The windfall profits tax imposed by 26 U.S.C.A. §4986.

f. The taxes described in paragraphs c, d, e and f shall be deductible only to the extent that such taxes are deductible for federal income tax purposes under 26 U.S.C.A. §164 (relating to taxes) and in the case of nonresidents, these taxes shall be apportioned to Alabama by the ratio that the amount of adjusted gross income received from sources within Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

g. In addition, there shall be allowed as a deduction, state and local, and foreign taxes, except income taxes, and taxes imposed by authority of the United States or any possession of the United States, which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in 26 U.S.C.A. §212 (relating to expenses for the production of income).

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but, in the case of a taxpayer other than a resident of the state, only as to such transactions within the state;

(6) Losses sustained during the taxable year of property not connected with the trade or business, but in the case of a taxpayer other than a resident of the state only of property within the state, if arising from fires, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise. A loss described in this subdivision shall be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeds \$100.00. For purposes of the \$100.00 limitation of the preceding sentence, a husband and wife using the rate table in subdivision (2) of section 40-18-5 for the taxable year in which the loss is allowed as a deduction shall be treated as one individual. No loss described in this subdivision shall be allowed if, at the time of filing the return, such loss has been claimed on the federal estate tax return;

(7) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the

conduct of the regular trade or business of the taxpayer during the period covered by an Alabama income tax law;

(8) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence;

(9) In the case of mines, oil, and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably proportioned between the lessor and the lessee;

(10) Charitable contributions to the extent allowed for federal income tax purposes under 26 U.S.C.A. §170 (relating to charitable contributions and gifts), but not subsection (i) thereof (relating to nonitemized charitable deductions), as in effect on January 1, 1982. In the case of a nonresident individual, this deduction shall be limited to the amount determined by multiplying the amount described in the previous sentence by a fraction, the numerator of which is the taxpayer's adjusted gross income from all sources within the state of Alabama and the denominator is the taxpayer's adjusted gross income from all sources.

(11) In the case of a resident individual, the deduction allowed such individual for federal income tax purposes by 26 U.S.C.A. §219 (relating to retirement savings) as amended from time to time;

(12) The deduction allowed for federal income tax purposes by 26 U.S.C.A. §404 and 26 U.S.C.A. §405(c) (relating to qualified pension, profit sharing, stock bonus, annuity or bond purchase plans), as amended from time to time, provided, however, that contributions to such plans on behalf of individuals who are employees within the meaning of 26 U.S.C.A. §401(c)(1), as in effect from time to time (relating to self-employed individuals), shall be deductible only if such individuals are residents;

(13) For each individual income taxpayer, medical and dental expenses, including expense for medicine and drugs and amounts paid for accident and health insurance, paid during the taxable year 1982 and each year thereafter, to the same extent and subject to the same limitations when applied to the taxpayer's adjusted gross income for state tax purposes, as prescribed under the laws of the United States in force and effect January 1, 1982, in relation to income taxes due the United States;

(14) For each individual income taxpayer, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation or maintenance of property held for the production of income;

(15) Any expense not exceeding \$1,000.00 actually incurred during the taxable year in constructing on his property a family radioactive fallout shelter, as approved and certified by the state department of civil defense, and any amount not exceeding \$1,000.00 which he contributed during the taxable year toward the construction of a community radioactive fallout shelter; and

(16) a. An amount equal to the aggregate of the net operating loss carryovers to the taxable year, plus the net operating loss carrybacks to such year. For purposes of this subdivision, the term "net operating loss deduction" means the deduction allowed by this paragraph.

b. 1. A net operating loss for any taxable year ending after December 31, 1974, and before January 1, 1976, shall be a net operating loss carryback to the tax year preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1975, and before January 1, 1977, shall be a net operating loss carry back to each of the two taxable years preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss.

2. A net operating loss for any taxable year ending after December 31, 1976, and before January 1, 1985, shall be a net operating loss carryover to each of the five taxable years following the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1984, shall be a net operating loss carryover to each of the 15 years following the taxable year of such loss.

c. The entire amount of the net operating loss for any taxable year (hereinafter referred to as the "loss year") shall be carried to the earliest of the taxable years to which, by reason of paragraph b, such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed:

1. With the modifications specified in paragraph f other than subparagraphs 1 and 3 thereof; and

2. By determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any

taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

d. Any taxpayer entitled to a carryback period under paragraph b may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1984. Such election shall be made in such a manner as may be prescribed by the commissioner, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year.

e. For purposes of this subdivision, the term "net operating loss" means, for any taxable year ending after December 31, 1974, the excess of the deductions allowed by this chapter over the gross income. Such excess shall be computed with the modifications specified in paragraph f of this subdivision.

f. The modifications referred to in this subdivision are as follows:

1. No net operating loss deduction shall be allowed.

2. No deduction shall be allowed under sections 40-18-19(a)(8) and (9), and 40-18-19(b) (relating to personal exemptions and credit for dependents). No deductions in lieu of any such deduction shall be allowed.

3. The deductions allowable by this chapter which are not attributable to a taxpayer's trade or business, including the federal individual income tax deduction, shall be allowed only to the extent of the amount of the gross income not derived from such trade or business. For purposes of the preceding sentence:

(i) Any gain or loss from the sale or other disposition of property used in the trade or business of a character which is subject to the allowance for depreciation provided in subdivisions (8) and (9) of subsection (a), or real property used in the trade or business shall be treated as attributable to the trade or business;

(ii) The modifications specified in subparagraphs 1 and 3 shall be taken into account;

(iii) Any deduction allowable under section 40-18-15(a)(6) (relating to casualty losses) shall not be taken into account; and

(iv) Any deduction allowed under section 40-18-15(a)(12) to the extent attributable to contributions which are made on behalf of an individual who is an employee within the meaning of said 26 U.S.C. §401(c)(1) (relating to self-employed individuals) shall not be treated as attributable to the trade or business of such individual.

4. The optional standard deduction allowed under section 40-18-15(b)(1) shall be treated as a deduction allowed by this chapter. For purposes of paragraph e:

(i) The deduction provided by the preceding sentence shall be in lieu of any itemized deductions of the taxpayer, and

(ii) Such sentence shall not apply to an individual who elects to itemize deductions.

g. In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

h. In the case of a taxable year beginning in 1974 and ending in 1975:

1. In lieu of the amount specified in paragraph e of this subdivision, the net operating loss for such year shall be that portion of the net operating loss for such year, computed without regard to this subparagraph, which the number of days in the loss year after December 31, 1974, bears to the total number of days in such year.

2. For purposes of the second sentence of subparagraph 3 of paragraph f of this subdivision, the taxable income for such year shall be that portion of the net income for such year, computed without regard to this subparagraph, which the number of days in such year before January 1, 1975, bears to the total number of days in such year.

(17) There shall be allowed resident taxpayers a deduction from the taxpayer's adjusted gross income for state income tax purposes of the total cost of installation for conversion from gas or electricity to wood as the primary energy source for heating their individual domestic homes for the taxable year during which such conversion was completed.

(18) For individual resident taxpayers, alimony and separate maintenance payments, the amount deductible to be the same as the amount deductible for federal income tax purposes under 26 U.S.C.A. §215 (relating to alimony payments), as in effect January 1, 1985.

(19) Moving expenses paid or incurred during the taxable year to the same extent that such expenses are deductible, except as provided herein, for federal income tax purposes under 26 U.S.C.A. §217 (relating to moving expenses), as in effect January 1, 1982. The term "new principal place of work," as such term is made relevant hereto by the federal statute, means and includes only places of work located within the state of Alabama, and the deduction for moving expenses provided for herein shall be allowable only in the event

that such "new principal place of work" is located within the state of Alabama.

(20) Any expense not exceeding \$35,000 actually incurred during the taxable year in removing from his property any architectural or transportation barriers to handicapped persons with nonambulatory and semiambulatory disabilities; provided, however, that any improvements resulting from such expense shall not be eligible to be capitalized for depreciation.

(21) Notwithstanding subdivision (1), beginning with all tax years or periods beginning after December 31, 1987, the deduction for expenses of travel, entertainment, and meals shall be determined in accordance with 26 U.S.C. §274.

(b)(1) In lieu of the deductions allowable to individual taxpayers, as provided in subdivisions (2), (3), (5), (6), (10), (13), (14), and (17) of subsection (a) of this section, for the taxable years beginning on and after January 1, 1982, at the election of the taxpayer required to use the rate schedule in subdivision (1) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$2,000.00, whichever is the lesser, and at the election of the taxpayer required to use the rate schedule in subdivision (2) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$4,000.00, whichever is the lesser and, in addition to said deduction, a deduction for the amount of federal income tax paid or accrued within the taxable year; provided, that in the case of a nonresident taxpayer the deduction for the optional standard deduction shall be an amount equal to the optional standard deduction that would be allowable if the taxpayer were a resident taxpayer, multiplied by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama; and the amount of federal income tax so deductible to Alabama shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

(2) If separate returns are filed by husband and wife and one spouse elects to claim the deduction allowed herein, the election to claim such deduction will be denied unless the other spouse also elects to claim the deduction allowed herein.

(c) The term "adjusted gross income," as used in this section, shall mean the gross income as defined by section 40-18-14, less:

(1) The deductions allowed in this section which are attributable to a trade or business carried on by the taxpayer if such trade or

business does not consist of the performance of services by the taxpayer as an employee;

(2) Travel expenses, including the entire amount expended for meals and lodging, while away from home in the pursuit of a trade or business;

(3) The deductions allowed by this section, other than expenses of travel, meals and lodging while away from home, which consist of expenses paid or incurred by the taxpayer in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer;

(4) The deductions, other than those provided in subdivisions (1), (5) and (6), of subsection (a) allowed by this section and which are attributable to property held for the production of rents or royalties;

(5) The deductions, other than those provided in subdivision (1) of this subsection, for depreciation and depletion, allowed by subdivisions (8) and (9) of subsection (a) of this section to a life tenant of property or to an income beneficiary of property held in trust; and

(6) The deduction, other than those provided in subdivision (1) of this subsection, allowed by section 40-18-8 as losses from the sale or exchange of property.

(d) In the case of a nonresident individual, the deductions allowed in subdivisions (1), (4), (5), (7), (8), (9) and (17) of subsection (a) of this section shall be allowed only if and to the extent that they are connected with income arising from a source within the state of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the state of Alabama shall be determined under rules and regulations prescribed by the department of revenue."

**Section 4.** The Department of Revenue shall have statutory rulemaking authority to promulgate reasonable rules and regulations with which to administer the provisions of this act.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 9:30 P.M.

Act No. 90-597

H.J.R. 497—Rep. Campbell

## HOUSE JOINT RESOLUTION

## HONORING OCCUPATIONAL THERAPISTS IN ALABAMA.

WHEREAS, Occupational Therapy was established as a health care profession sixty years ago and, in the State of Alabama, occupational therapists and occupational therapy assistants work in schools, rehabilitation centers, hospitals and nursing homes; and

WHEREAS, through purposeful activities and rehabilitation treatment techniques, occupational therapists help to bring about a higher quality of life for persons of all ages whose ability to function in daily life tasks has been impaired by developmental disabilities, diseases, traumatic injuries, and mental and emotional disabilities; and

WHEREAS, in responding to the special needs of individuals, members of this profession have helped many of our citizens lead more productive and satisfying lives; and

WHEREAS, Occupational Therapy is one of the fastest growing professions facing significant shortages in personnel across the country, and the State of Alabama has two professional training programs, one at the University of Alabama at Birmingham and the other at Tuskegee University helping to meet the manpower shortage in occupational therapy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That occupational therapists in Alabama are hereby recognized for their achievements and contributions in increasing the quality of life for Alabama's citizens in need of rehabilitation services.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for the Alabama Occupational Therapy Association, Birmingham, Alabama.

Approved April 23, 1990

Time: 7:58 P.M.

Act No. 90-598

S. 84—Senators Goodwin, Rice, Horn,  
Corbett, Dial, Figures,  
Sanders, Denton, Campbell,  
Bishop, Covington, Foshee,



Barron, Holmes, deGraffenried,  
 Bedford, Windom, Parsons,  
 Drinkard, Manley, Langford,  
 Smith (J), Dixon, Hale,  
 Bedsole, Preuitt, Bennett,  
 Hilliard and Bailey

## AN ACT

To provide for the organization of a public corporation to be known as Alabama public health finance authority; to designate the officers and members of the board of directors; to prescribe the powers of the authority including the power to issue bonds and to use the proceeds to provide new public health facilities and to improve such existing facilities in the state and to provide new public facilities and to improve such existing public facilities in counties receiving reimbursement under Section 19(b) of this bill; to provide that such bonds shall not create an obligation or debt of the state but shall be payable from specific pledged revenues and other funds available to the authority; to make an appropriation and pledge of funds, from incremental and additional fees levied on the disposal of hazardous waste by the act resulting from the enactment of House Bill 310 introduced at the 1990 Regular Session of the Alabama Legislature or by any other statute now or hereafter enacted, to pay the principal of and the interest on bonds; to make such appropriations as are necessary to fund a debt service reserve fund; to authorize the authority to issue refunding bonds; to specify the counties and municipalities or localities in which the authority shall provide public health facilities and to provide conditions limiting changes in the amounts of bond proceeds allocated to such counties and municipalities or localities; to provide that such bonds and the income therefrom shall be exempt from taxation in the state; to provide that such bonds may be used as security for the deposit of funds belonging to the state; to provide that trust funds may be invested in such bonds, and to specify other characteristics of such bonds; to provide that the state treasurer shall be custodian of the funds of the authority; and to provide for the dissolution of the authority.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature hereby finds and declares that it is necessary, desirable and in the public interest that additional facilities be made available in this state for public health purposes. It is the intention of the legislature by the passage of this act to authorize the formation of a public corporation for the purposes of providing for the acquisition, construction, improvement and equipment of public health facilities and to improve such existing facilities for use by the state board of health and county board(s) of health throughout this state in carrying out the duties and powers imposed upon or vested in them; to authorize the said corporation to provide for payment of the costs of the said facilities by the issuance of bonds of the corporation; and to pledge the proceeds of such bonds and other revenues that may be available to it for payment of the debt service on said bonds.

**Section 2.** The following words and phrases used in this act, unless the context clearly indicates otherwise, shall have the following respective meanings:

“Authority” means the public corporation organized pursuant to the provisions of this act.

“Bonds” means the bonds issued under the provisions of this act.

“County board(s) of health” means county board(s) of health provided for in chapter 3 of subtitle 1 of Title 22 of the Code of Alabama 1975.

“Directors” means the board of directors of the authority.

“Government Securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligation of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

“Permitted investments” means (i) Government Securities; (ii) bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home Loan Banks; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks, or Farmers Home Administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof; (iii) bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Association and participation certificates of Federal Home Loan Mortgage Corporation; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least “AA” by Standard & Poor’s Corporation and at least “Aa” by Moody’s Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, provided that, to the extent such time deposits are not covered by federal deposit insurance, such time deposits (including interest thereon) are fully secured by a pledge of obligations described in clauses (i), (ii), (iii), and (v) above, which at all times have a market value (exclusive of accrued interest) not less than the amount of such bank time deposits required to be so secured and which meet

the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings, (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements, which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and (viii) uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

"Public health facilities" means land, buildings, other improvements to realty, machinery, equipment and any other property of a similar nature which is or may be used by or useful to the state board of health or any county board of health in providing the public health services for which provision is made in chapter 3 of subtitle 1 of Title 22 of the Code of Alabama 1975, and includes alterations, modifications, improvements to and equipment for facilities now owned or operated by the state board of health or any county board of health.

"State" means the state of Alabama.

"State board of health" means the state board of health provided for in chapter 2 of subtitle 1 of Title 22 of the Code of Alabama 1975.

The definitions hereinabove set forth shall be deemed applicable whether the words defined are used in the singular or the plural. Any pronoun or pronouns used herein shall be deemed to include both the singular and the plural and to cover all genders.

**Section 3.** The state health officer, the governor or his designee, the director of finance of the state, the state treasurer, one member of the state senate to be appointed by the president of the senate (which member may be the president of the senate), and one member of the house of representatives to be appointed by the speaker of the house of representatives (which member may be the speaker of the house of representatives) may become a public corporation with the powers hereinafter provided by proceeding according to the provisions of Section 4 of this act.

**Section 4.** To become a corporation, the state health officer, the governor or his designee, the finance director of the state, the

state treasurer, the member representing the house of representatives, and the member representing the senate shall present to the secretary of state an application signed by them which shall set forth:

(1) the name, official designation, and official residence of each of the applicants;

(2) the date on which each applicant was inducted or elected into office and the term of office of each applicant;

(3) the name of the proposed corporation, which shall be the Alabama public health finance authority;

(4) the location of the principal office of the proposed corporation; and

(5) any other matter relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this act.

The application shall be subscribed and sworn to by each of the applicants before an officer authorized to take acknowledgments to deeds. The secretary of state shall examine the application and if he finds that it substantially complies with the requirements of this section of this act, he shall receive, file and record it in an appropriate book of records in his office.

**Section 5.** When the application has been made, filed, and recorded as herein provided, the applicants shall constitute a public corporation under the name proposed in the application. The secretary of state shall make and issue to the applicants a certificate of incorporation under the great seal of the state and shall record the certificate with the application. No fees or compensation shall be paid to the secretary of state for any service rendered or work performed in connection with the authority, its incorporation, dissolution or records.

**Section 6.** (a) The applicants named in the application and their respective successors in office shall constitute the members of the authority. The state health officer shall be the president of the authority, the governor or his designee shall serve as vice-president of the authority, the director of finance of the state shall serve as secretary of the authority, and the state treasurer shall be the treasurer of the authority. The state treasurer shall act as custodian of the funds of the authority and shall pay the principal of and the interest and premium (if any) on the bonds of the authority out of the funds hereinafter provided for. The state treasurer shall act as paying agent with respect to any series of bonds issued under this act.

(b) The service of each of the governor, the state health officer, the director of finance and the state treasurer as a member of the

authority and as an officer thereof shall begin and end concurrently with the beginning and end of his or her tenure in such office. Should any of the governor, the state health officer, the director of finance or the state treasurer cease to hold office by reason of death, resignation, expiration of his or her term of office, or for any other reason, then his or her successor in office shall take his or her place as a member and officer of the authority.

(c) The member of the authority representing the senate and the member of the authority representing the house of representatives shall each serve a term as a member of the authority commencing with his or her appointment by the president of the senate or the speaker of the house of representatives, as the case may be, and ending with the legislative term during which he or she was appointed; provided that each of such members shall continue to serve as a member of the authority beyond his or her legislative term, even though he or she may not have been reelected to the house of the legislature from which he or she was originally appointed, until a successor shall be appointed by the president of the senate or the speaker of the house of representatives, as the case may be. A member of the authority who previously represented either the senate or the house of representatives shall be eligible for reappointment as a member of the authority, without limit as to number of successive terms, if at the time of any such reappointment he is a member of the house of the legislature which he is to represent. Should any appointed member of the authority resign from the authority, or cease for any reason to hold office as a member of the house of the legislature from which he or she was originally appointed, a successor member shall be appointed for the unexpired term of such member, or for a new term if the term of such member had expired, by the same officer of the legislature who originally appointed such member.

(d) The members of the authority shall constitute all the members of the board of directors of the authority, and the presence of any four members of the directors shall constitute a quorum for the transaction of business. No member, officer or director of the authority shall draw any compensation in addition to that now authorized for any service he or she may render or for any duty he or she may perform in connection with the authority. All proceedings had and done by the board of directors shall be reduced to writing by the secretary of the authority, shall be signed by each of the directors, and shall be recorded in a substantially bound book which shall be kept in the office of the director of finance. When certified by the secretary of the authority, copies of such proceedings shall be received in all courts as prima facie evidence of the matters and things therein certified. The board of directors of the authority shall meet at the call of the president of the authority upon five days' written notice to each of the members.

(e) If the governor designates someone other than himself to serve as a member of the authority, the term of said designee, who shall serve at the pleasure of the governor, shall commence with his or her appointment by the governor. A successor designee may be appointed within 30 days after the new term of the governor or his successor in office shall commence.

**Section 7.** The authority shall have the following powers among others specified in this act:

(1) To have succession by its corporate name until dissolved as provided in this act;

(2) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties thereto;

(3) To have and to use a corporate seal and to alter the same at pleasure;

(4) To make and alter all needful bylaws, rules and regulations for the transaction of the authority's business and the control of its property and affairs;

(5) To provide for the acquisition, construction, installation, equipping, operation and maintenance of public health facilities, including the equipping and improvement of existing public health facilities, and to vest title to such facilities or to cause or permit title to such facilities to be vested in the authority, the state board of health or county board(s) of health, as the directors shall determine;

(6) To receive, take and hold by sale, gift, lease, devise or otherwise, real and personal property of every description, and to manage the same;

(7) To acquire by purchase, gift, lease or the exercise of the power of eminent domain, or by any other lawful means, any real, personal or mixed property, and to sell, exchange, donate, transfer, or convey any or all of its properties, all as the authority shall determine to be necessary or desirable for the accomplishment of the purposes of this act;

(8) To borrow money and issue its bonds in evidence thereof subject to the provisions of this act;

(9) To anticipate by the issuance of its bonds the receipt of the revenues herein appropriated and pledged or herein authorized to be pledged by the authority, all in the manner hereinafter provided;

(10) As security for payment of the principal of and the interest and premium (if any) on its bonds, to pledge any funds or revenues from which its bonds may be made payable, including the proceeds

of the appropriations and pledges herein provided for and to arrange for and provide such additional security for its bonds, including, but not limited to, letters of credit, bond insurance policies, surety bonds, all as the board of directors shall determine to be necessary or desirable;

(11) To make and enter into such contracts, leases, agreements and other actions as may be necessary or desirable to accomplish any corporate purpose and to exercise any power necessary for the accomplishment of the purposes of the authority or incidental to the powers expressly set out herein;

(12) To appoint and employ such attorneys, accountants, financial advisors, underwriters, trustees, depositories, registrars, fiscal agents and other advisors, agents and independent contractors as may, in the judgment of the directors, be necessary or desirable; and

(13) To do all other acts and things necessary or convenient to carry out the provisions of this act.

**Section 8.** For the purposes of acquiring, constructing, installing and equipping public health facilities, the authority is hereby authorized to issue and sell from time to time its bonds, which bonds may be in the form of interest-bearing bonds or noninterest-bearing bonds. Other than refunding bonds, the aggregate principal amount of bonds issued under this act shall not exceed \$45,000,000; provided, however, that, if the authority determines that the total net amount of bond proceeds available to provide funds for paying the costs of acquiring, constructing, improving, and equipping public health facilities (excluding underwriting discount, other issuance expenses and ten percent of the principal amount of such bonds to be used to capitalize or fund a debt service reserve fund as authorized by Section 16(b) of this act), plus the interest income, not exceeding \$2,000,000, earned on such net amount of bond proceeds pending expenditure thereof, will be less than \$45,000,000, the aggregate principal amount of bonds issued under this act may be increased by the authority to such amount as will permit the authority to receive such net bond proceeds and such interest income (not exceeding \$2,000,000) thereon totaling \$45,000,000. The determination of the estimated issuance expenses, underwriting discount and projected expenditure schedule necessary to calculate the additional principal amount of bonds (if any) to be issued under this section shall be made by the authority.

**Section 9.** The bonds, which may be issued in one or more series, shall be in such forms and denominations and of such tenor and maturities, shall, if issued as interest-bearing bonds, bear such rate(s) of interest and be payable and evidenced in such manner, shall be payable in such installments at such time(s) and at such place(s), and may contain such other provisions not inconsistent

with this act, all as may be provided in the resolution(s) of the directors under which the bonds are authorized to be issued; provided that none of the bonds shall have a specified maturity date later than 20 years after its date. At its election, the authority may retain in the resolution(s) under which any of the bonds are issued an option to redeem all or any thereof and at such redemption price(s) and after such notice(s) and on such dates and subject to such terms and conditions as may be set forth in said resolution(s) and as may be briefly recited in the bonds with respect to which such option of redemption is retained.

**Section 10.** The bonds shall be signed by the president of the authority and attested by its secretary; and a facsimile of the signatures of both of said officers may be printed or otherwise reproduced on any of the bonds in lieu of being manually signed if the proceedings under which the bonds are issued provides for the manual authentication of such bonds by a trustee or paying agent or by named individuals who are employees of the state and who are assigned to the department of finance or office of the state treasurer. The seal of the authority shall be impressed on the bonds, and a facsimile of said seal may be printed or otherwise reproduced on any of the bonds in lieu of being manually impressed thereon. Delivery of bonds so executed shall be valid notwithstanding any changes in officers subsequent to the signing of such bonds.

**Section 11.** Bonds of the authority (including refunding bonds) may be sold at such price(s) and at such time(s) as the directors may consider advantageous, either at public sale through competitive bidding or by private sale through negotiation with the prospective purchaser. The authority may fix the terms and conditions under which each sale of bonds may be held. The authority may pay out of the proceeds from the sale of the bonds all expenses, including, but not limited to, fees, premiums, discounts, insurance premiums and commissions and letters of credit or other credit enhancement fees, as the directors may deem necessary or advantageous. Neither a public hearing nor consent by the state department of finance or any other department or agency shall be a prerequisite to the issuance of any of the bonds. All bonds issued by the authority shall contain a recital that they are issued pursuant to the provisions of this act, which recital shall be conclusive evidence that the said bonds have been duly authorized pursuant to the provisions of this act.

**Section 12.** The bonds shall not be general obligations of the authority but shall be limited obligations payable solely from one or more specified sources, including, but not limited to, the revenues and funds appropriated and pledged therefor or authorized to be pledged therefor in Section 16 of this act as security for the payment of the principal of and the interest and premium (if any) on the



bonds issued by it under this act. All series of bonds issued pursuant to this act, including refunding bonds, shall be issued on a parity, without preference or priority between the bonds of any series, with respect to the security for the payment of the principal of and the interest on such bonds. All bonds issued by the authority pursuant to the provisions of this act shall be solely and exclusively obligations of the authority and shall not be an obligation or debt of the state. The bonds shall be construed to be negotiable instruments although payable solely from one or more specified sources as herein provided.

**Section 13.** The bonds and the income therefrom shall be exempt from all taxation in the state. Any of the bonds may be used by the holder thereof as security for the deposit of any funds belonging to the state or to any instrumentality or agency of the state in any instance where security for such deposits may be required. Unless otherwise directed by the court having jurisdiction thereof, or by the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred and with the exercise of reasonable business prudence, invest trust funds in any of the bonds.

**Section 14.** (a) Any bonds issued by the authority under this act may from time to time thereafter be refunded by the issuance of refunding bonds of the authority; provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 95% of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the refunding bonds, as measured from the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined. Any such refunding bonds may be issued whether the bonds to be refunded shall have then matured or shall thereafter mature, and

such refunding may be effected either by sale of the refunding bonds and the applications of the proceeds thereof to the payment or redemption of the bonds so refunded or by exchange of the refunding bonds for those to be refunded thereby. The holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable, or if they are called for redemption, prior to the date on which they may be redeemed by the authority according to their terms. Any refunding bonds may be issued in such aggregate principal amount as the authority shall deem necessary to effect such refunding.

(b) The proceeds derived from any sale of refunding bonds remaining after payment of the expenses of their issuance shall be applied in accordance with the proceedings of the authority under which such refunding bonds are issued. Pending the application of said proceeds to the purchase, redemption or payment of such outstanding bonds, the said proceeds may be invested in permitted investments pursuant to a trust agreement providing for the future application of such proceeds to the purchase, redemption or payment of such outstanding bonds. Bonds refunded prior to their maturity with the proceeds of refunding bonds shall be deemed not outstanding if the authority, in the proceedings under which such refunding bonds are issued, establishes a trust fund consisting of cash or government securities, or both, sufficient to pay in accordance with the provisions of such trust fund when due, the entire principal of and the interest and premium (if any) on the refunded bonds; provided that such government securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof. Upon the establishment of such a trust fund, the refunded bonds shall no longer be deemed to be outstanding, shall no longer be secured by the funds pledged therefor in Section 16 of this act, shall no longer be obligations of the authority, and shall be secured solely by and payable from the moneys and investments deposited in such trust fund.

**Section 15.** (a) The proceeds of the bonds, other than refunding bonds, remaining after paying the expenses of their sale and issuance shall be turned in to the state treasury and all income derived from the investment of said proceeds (including income from the investment of proceeds held in the debt service reserve fund to the extent provided in the resolution, trust indenture or other documents pursuant to which the bonds shall be issued) shall be carried in a special fund to be designated the public health facilities building fund, and shall be subject to be drawn on by the authority for the purpose of paying the costs of acquiring, constructing, improving and equipping such public health facilities in the state as shall be determined by the authority. Subject to the provisions of Section 19

of this act, the authority shall have the power (i) to determine the location of the public health facilities to be acquired, constructed, improved or equipped with the proceeds of bonds issued pursuant to this act, (ii) to determine the kind, design and quality of the facilities to be so acquired or constructed or the kind, design and quality of the improvements to be made thereto or equipment to be provided therefor, and (iii) the amounts of bond proceeds to be respectively expended with respect to such facilities, including the power to acquire, construct, improve or equip facilities that are not listed in Section 19 of this act and, with respect to facilities that are listed in said Section 19, to change the amount of bond proceeds to be expended therefor to amounts other than the amounts specified in said Section 19. The authority is authorized to contract with the state board of health or, with the concurrence of the state board of health, to contract directly with county board(s) of health, with respect to the use of bond proceeds to provide public health facilities.

(b) The improvement of a facility shall be deemed to include the alteration, modification, renovation, modernization, remodeling, and equipping thereof and the construction of additions thereto; and the construction of a facility shall be deemed to include the acquisition of real estate sites and equipment therefor. Equipment shall mean any item of personal property having a useful life estimated by the authority to be at least 10 years.

(c) The preparation of all plans and specifications for any building, or capital improvements to a building, constructed wholly or in part with any of the proceeds from the sale of the bonds and all work done hereunder in constructing buildings and capital improvements thereto shall be supervised by the Alabama building commission, or any agency that may be designated by the legislature as its successor. All work done in the construction of buildings and all purchases of equipment shall be made on the basis of competitive bidding in the manner provided by law.

(d) Any moneys remaining on deposit in the public health facilities building fund upon completion of the authority's program for the acquisition, construction and improvement of public health facilities and the payment of all costs in connection therewith shall be applied to the redemption of bonds on the earliest date on which they are by their terms subject to redemption.

**Section 16.** (a) For the purpose of providing funds to enable the authority to pay on their respective due dates the principal of and the interest and premium (if any) on any bonds issued by it under the provisions of this act and to accomplish the objects of this act, there is hereby irrevocably pledged to such purpose and there is hereby appropriated so much as may be necessary for such purpose of the receipts from the incremental and additional excise

taxes or fees levied on the disposal of hazardous waste or hazardous substances by the provisions of (i) the act resulting from the enactment of House Bill 310 introduced at the 1990 Regular Session of the Alabama Legislature (whether such bill is enacted before or after this act) or (ii) any other statute, now or hereafter enacted, which appropriates or pledges such a tax or fee for the payment of the principal of and the interest and premium (if any) on bonds issued by the authority under the provisions of this act.

(b) A debt service reserve fund is authorized to be established and maintained in such an amount and under such conditions for any or all series of the bonds as may be determined by the authority in its resolution(s) relating to the bonds. The authority is authorized to make payments from bond proceeds or any other funds or revenues available to it (including tax revenues pledged for the payment of the authority's bonds in excess of those required to meet current debt service on such bonds) into the debt service reserve fund. Income earned from the investment of moneys held in the debt service reserve fund may be used by the authority for any purpose designated by the authority that would constitute a permitted use of funds of the authority under this act. The authority is authorized to determine the conditions for the utilization of the debt service reserve fund (including earnings from the investment of such fund) in its resolution(s) relating to the bonds secured thereby, and by the terms of such resolution(s), to dedicate and pledge such fund and the investment earnings therefrom to payment of debt service on the bonds.

**Section 17.** All contracts made, obligations incurred and bonds issued by the authority shall be solely and exclusively obligations of the authority and shall not create obligations or debts of the state.

**Section 18.** Prior to the completion of all public health facilities described in Section 19 of this act, any portion of the principal proceeds derived from the sale of the bonds which the board of directors may determine is not then needed for any of the purposes for which the bonds are authorized to be issued shall, on order of the authority, be invested by the state treasurer in permitted investments which mature at such time or times as the authority shall direct. At any time and from time to time on order of the authority, any such investments may be sold or otherwise converted by the state treasurer into cash. The income derived from any such investments shall be applied first for the payment of the costs of providing the public health facilities described in Section 19 of this act and, to the extent not needed for such purpose, such income may be disbursed on order of the authority for any purpose for which the authority may lawfully expend its funds.

**Section 19.** (a) As its primary obligation under this act, the authority shall, subject to the provisions of subsection (c) of this

Section 19, expend the net proceeds derived from the sale of the bonds herein provided (other than refunding bonds), together with the income from the investment of such proceeds, for the purpose of paying the costs of acquiring, constructing, improving and equipping public health facilities in the following locations and in the following amounts:

County	Municipality or Locality	Total
Autauga	Prattville	\$ 8,318
Baldwin	Bay Minnette	556,649
Baldwin	Fairhope	619,694
Baldwin	Foley	542,375
Barbour	Clayton	122,267
Barbour	Eufaula	559,930
Bibb	Centreville	739,481
Blount	Oneonta	383,936
Bullock	Union Springs	549,960
Butler	Greenville	683,291
Calhoun	Anniston	2,000,000
Chambers	LaFayette	531,844
Chambers	Valley	170,723
Cherokee	Centre	280,797
Chilton	Clanton	719,032
Choctaw	Butler	584,503
Clarke	Grove Hill	437,119
Clay	Ashland	562,645
Cleburne	Heflin	219,104
Coffee	Coffee County	1,189,787
Colbert	Tuscumbia	20,000
Conecuh	Evergreen	335,723
Coosa	Goodwater	186,217
Coosa	Rockford	545,097
Covington	Andalusia	977,514
Covington	Opp	106,809
Crenshaw	Luverne	19,960
Cullman	Cullman	31,931
Dale	Ozark	242,435
Dallas	Selma	2,169,166
Dekalb	Fort Payne	402,925
Elmore	Wetumpka	206,787
Escambia	Atmore	162,494
Escambia	Brewton	220,209
Etowah	Gadsden	881,132
Fayette	Fayette	561,120
Franklin	Russellville	832,534
Geneva	Geneva	289,600

Greene	Eutaw	243,561
Hale	Greensboro	237,679
Henry	Abbeville	265,452
Henry	Headland	118,223
Houston	Dothan	23,303
Jackson	Scottsboro	490,256
Jefferson	Bessemer	146,763
Jefferson	Birmingham	634,334
Jefferson	Eastern	46,351
Jefferson	Far Eastern Health Center	555,000
Jefferson	Leeds	10,652
Jefferson	Morris	276,050
Jefferson	Northern	33,801
Jefferson	Western	378,268
Lamar	Vernon	314,739
Lauderdale	Florence	816,887
Lawrence	Moulton	582,361
Lee	Opelika	581,900
Limestone	Athens	156,549
Lowndes	Hayneville	331,325
Macon	Tuskegee	256,838
Madison	Huntsville	1,601,875
Madison	Huntsville-Calvary Hill	344,871
Madison	Triana	66,820
Marengo	Linden	569,706
Marion	Hamilton	743,586
Marshall	Albertville	454,107
Marshall	Guntersville	794,541
Mobile	Mobile	1,391,903
Mobile	Northern Part of County	555,000
Mobile	Southern Part of County	555,000
Monroe	Monroeville	556,782
Montgomery	Montgomery	3,000,000
Morgan	Decatur	341,621
Perry	Marion	657,398
Perry	Uniontown	9,532
Pickens	Carrollton	77,869
Pike	Troy	729,479
Randolph	Roanoke	414,345
Randolph	Wedowee	1,493
Russell	Phenix City	553,394
Saint Clair	Ashville	98,664
Saint Clair	Pell City	580,664
Shelby	Columbiana	592,481
Shelby	Pelham	551,363
Sumter	Livingston	548,371
Talladega	Childersburg	9,327

Talladega	Sylacauga	129,015
Talladega	Talladega	243,186
Tallapoosa	Alexander City	607,137
Tallapoosa	Dadeville	312,662
Tuscaloosa	Tuscaloosa	337,852
Walker	Jasper	242,655
Washington	Chatom	237,630
Wilcox	Camden	213,911
Winston	Double Springs	65,989
Winston	Haleyville	26,671

(b) Any county commission in any county for which an allocation of bond proceeds is made in subsection (a) of this Section 19 may petition the authority (i) for reimbursement of capital expenditures for public health facilities incurred and paid by a board of health in such county or such county commission after January 1, 1989, or (ii) to refinance or refund any obligations incurred to finance capital expenditures for public health facilities incurred and paid by a board of health in such county or such county commission after January 1, 1989. Out of the total amount of bond proceeds allocated in subsection (a) of this Section 19 to any county in which such capital expenditures were incurred and paid, the authority shall reimburse such costs or provide for the refinancing or refunding of obligations incurred to pay such costs, in either case, in an amount not to exceed the total amount allocated to such county. Additionally the county commission to which any such reimbursement is made shall be entitled to use the funds so reimbursed for any capital expenditure permitted by law. It is further provided that any county commission receiving reimbursement under this subsection (b) may use said reimbursement to provide new public facilities and/or to improve existing public facilities.

(c) To the extent consistent with the actual costs of public health facilities needed by the people in the counties, municipalities and localities identified in subsection (a) of this Section 19, the authority, acting with the advice of the state department of health, shall expend, out of bond proceeds and income derived from the investment thereof, the amounts respectively allocated by said subsection (a) for public health facilities in such counties, municipalities and localities. The authority may allow such increases above the amounts specifically allocated as are necessary to provide and pay the full costs of such facilities, provided that such increases are approved by unanimous consent of all members of the authority. In the absence of an authority member, his vote may be cast in writing and submitted to the chairman prior to the meeting during which said vote is scheduled. Under no circumstances shall any amount allocated to any county and/or municipality or locality by said subsection (a) be reduced by more than five percent (5%) of such amount

or \$50,000, whichever is less, unless the following conditions shall be satisfied:

(i) the board of directors of the authority, based on information and recommendations provided by the state department of health, shall have made findings in a resolution justifying the proposed reduction and the alternative expenditure that is to be made with the funds saved by such reduction;

(ii) at least ten days before the first of the meetings referred to in clause (iii) of this sentence, the chief health officer of the county affected by the proposed reduction and all members of the senate and house of representatives representing such county shall have been notified in writing of such proposed reduction, the findings justifying the same, and the date, time and place of the two meetings of the board of directors of the authority at which approval of such reduction will be considered; and

(iii) after having given the chief health officer, the senators and representatives, and other interested officials and citizens of the county affected by the proposed reduction an opportunity to oppose such reduction at each of the meetings required by this clause (iii), the unanimous consent of all members of the board of directors of the authority shall vote to approve such reduction, together with the alternative expenditure of the funds to be saved by such reduction, at not less than two different public meetings of the board of directors separated by an interval of not less than thirty (30) days. In the absence of an authority member, his vote may be cast in writing and submitted to the chairman prior to the meeting during which said vote is scheduled.

**Section 20.** The authority shall be a nonprofit corporation, and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any private entity.

**Section 21.** When all bonds issued by the authority and all obligations assumed by it under the provisions of this act shall have been paid in full, the then president of the authority shall thereupon execute and deliver in the name of and in behalf of the authority an appropriate deed, or deeds, to which the seal of the authority shall be affixed and attested by the secretary of the authority, whereby there shall be conveyed to the state all the buildings, properties and other assets then owned by the authority. The then officers and directors of the authority shall at such time file with the Secretary of State a written statement, subscribed and sworn to by each of them, reciting the payment in full of all bonds theretofore issued by the authority and the execution and delivery of such deed or deeds to the state, which statement shall be filed by the Secretary of State



and recorded with the certificate of incorporation of the authority, whereupon the authority shall stand dissolved.

**Section 22.** Out of the revenues appropriated and pledged in or pursuant to Section 16 of this act, the state treasurer is authorized and directed to pay the principal of and the interest and premium (if any) on the bonds on the respective due dates of such principal, interest and premium (if any), and he is further authorized and directed to set up and maintain appropriate records pertaining thereto.

**Section 23.** Notwithstanding any provisions of this Act, no allocations from any sources, including, but not limited to, bond proceeds and earnings thereon and debt service reserve and earnings thereon, shall be authorized for public health facilities in this state, other than allocations listed in Section 19(a), unless and until there is recorded in the official minutes of the authority the unanimous consent of all the members of the board of directors approving said allocations. In the absence of an authority member, his vote may be cast in writing and submitted to the chairman prior to the meeting during which said vote is scheduled.

**Section 24.** The authority shall have the power to make such payments to the United States of America as the directors deem necessary to cause the interest on any bonds of the authority to be and remain exempt from federal income taxation. The authority shall have the power to make agreements respecting the investment of funds of the authority necessary in order that the interest income on bonds of the authority be and remain exempt from federal income taxation.

**Section 25.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 26.** All laws or parts of law which conflict with this act are hereby repealed.

**Section 27.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 11:50 P.M.

Langford, Foshee, Corbett, Campbell,  
Holmes, Smith (J), Bedford,  
Sanders, Amari, Figures, Bishop,  
Dixon, Bedsole, Preuitt, Hilliard,  
Cabaniss, Smith (B) and Bailey

## AN ACT

To implement the provisions of an amendment to the Constitution of Alabama of 1901 authorizing the State of Alabama to become indebted and to sell and issue its interest bearing general obligation bonds, in addition to all other bonds of the state, in an aggregate principal amount not exceeding \$20,000,000 for the purpose of paying a portion of the capital costs of deepening, widening and extending of the existing federal channel at Bayou La Batre, Alabama, and the acquisition, development, construction, improvement, expansion, and modernization (or any of them) of general cargo handling facilities of the state docks at the Port of Mobile; to create a bond commission with authority to determine the details of said bonds and to sell and issue the same; to provide for the competitive and public sale of the bonds; to provide for the terms, execution and issuance of said bonds; to provide for the investment and reinvestment of the proceeds of such bonds pending the disbursement thereof; to allocate the proceeds of said bonds, together with the investment income derived from said proceeds, to the purposes for which they are to be expended; to authorize the issuance of refunding bonds for the purpose of refunding any outstanding bonds issued pursuant to this act; to empower the bond commission to make necessary payments and agreements regarding investments to comply with federal law regarding tax exempt bonds, and to exempt from taxation in the state all bonds issued pursuant to this act and the income therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. As used in this act, the following words and phrases shall have the following respective meanings:

“Bond amendment” means that certain amendment to the Constitution of Alabama of 1901 authorizing the issuance by the state of \$20,000,000 principal amount of its general obligation bonds which was proposed by Act No. 89-799, 1989 Regular Session.

“Bond commission” means the bond commission created by this act.

“Bond proceeds and investment income” means the proceeds of the bonds remaining after payment of the expenses of selling and issuing the same plus the income derived from the investment and reinvestment of such proceeds (including income derived from the investment and reinvestment of previously derived income), all of which, as provided in Section 7 hereof, are to be held in one or more separate accounts of the state treasury until expended for the purposes authorized by this act.

“Bonds” means bonds, other than refunding bonds, issued pursuant to the provisions of the bond amendment and Section 2 of this act; provided, however, that as used in Section 10 hereof, the

term bonds shall include previously issued and outstanding refunding bonds, as well as all bonds issued pursuant to Section 2 hereof.

“Refunding bonds” means refunding bonds issued pursuant to the provisions of the bond amendment and Section 10 of this act.

“State” means the State of Alabama.

“State docks” means that agency of the state created in 1922, the operations of which are governed by Title 33 of the Code of Alabama 1975, as amended.

The definitions hereinabove set forth shall be deemed applicable whether the words defined are used in the singular or plural. Any pronoun used herein shall be deemed to include both the singular and the plural and to cover all genders.

**Section 2.** Authorization of the Bonds. In order to implement the bond amendment, there are hereby authorized to be sold and issued bonds of the state in an aggregate principal amount not exceeding \$20,000,000. As provided in the bond amendment, the bonds issued pursuant to the provisions of this act shall be general obligations of the state, and the full faith and credit of the state are hereby irrevocably pledged for the prompt and faithful payment of the principal of the bonds and the interest and redemption premium (if any) thereon.

**Section 3.** Bond Commission. The Governor, one member of the Senate appointed by the Lieutenant Governor, one member of the House appointed by the Speaker of the House of Representatives, the director of finance and the state treasurer are hereby constituted a bond commission with full authority, except as herein specified or limited, to determine the terms and conditions of the bonds and to provide for the sale and issuance thereof. No member of the bond commission shall receive compensation in any form for any services performed by him or her in and about his or her duties as a member or officer of the bond commission. The bond commission shall meet at the call of the Governor, who is hereby designated its chairman. Three members of the bond commission shall constitute a quorum for the transaction of business, and all proceedings of the bond commission shall be reduced to writing, recorded in a substantial record book, signed by at least two members of the bond commission, and filed with the director of finance, who is hereby designated as the secretary of the bond commission and who shall keep the records of the proceedings of the bond commission.

**Section 4.** Terms and Conditions of the Bonds. Except as hereinafter limited, the bonds may be sold and issued in one or more series at any time and from time to time, may have such series designations, may be in such forms, principal amounts, denominations

and numbers, may be of such tenor and maturities, may bear such date or dates, may be in bearer form or registered either as to principal or interest or both, may be payable in such installments and at such time or times, may be payable at such place or places within or without the state, may bear interest at such rate or rates payable and evidenced in such manner, may contain provisions for redemption at the option of the state on such date or dates prior to their respective maturities and upon payment of such redemption price or prices, and may contain such other provisions not inconsistent with the provisions of the bond amendment and this act, all as shall be provided by the bond commission in the resolution or resolutions pursuant to which the bonds shall be authorized, sold and issued.

The state treasurer is authorized and directed to pay the principal of and interest on the bonds at the respective maturities of the said principal and interest, and he is further authorized and directed to set up and maintain appropriate records pertaining thereto. In the event that the state treasurer designates any bank as the paying agent with respect to any bonds, the state treasurer shall make available to such bank, not later than one business day prior to the date on which any principal of or interest on such bonds is due and payable, funds sufficient to pay such principal and interest due on such date.

The bonds of each series may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof, and the principal of the bonds of each series shall mature or be subject to mandatory redemption according to such schedule as the bond commission shall determine in the resolution authorizing the issuance of such series, provided that the first installment of principal of the bonds of each series shall mature or be subject to mandatory redemption not later than fifteen (15) years from the date of such series and the last installment of principal of the bonds of each series shall mature not later than twenty-five (25) years from the date of such series. Before any series of the bonds shall be offered for sale, the bond commission shall determine by resolution, on the basis of projections of revenue and expenditures furnished by the director of finance, that the revenues anticipated to be received into the general fund of the state, in each fiscal year of the state during the period over which the bonds of such series shall be outstanding, will be sufficient to pay the principal of and interest on such series of the bonds coming due in each such fiscal year, plus the debt service on all other then outstanding obligations of the state and the expenses of government that will also be payable out of the general fund of the state in each such fiscal year. Any determination made by the bond commission to comply with the requirements of the preceding sentence shall be final and conclusive, and the purchasers of any of

the bonds from the state and all subsequent holders thereof shall be fully protected by such determination.

Those of the bonds of each series having stated maturities more than ten years after the date thereof shall be made subject to redemption prior to their respective maturities, at the option of the state, at the end of the tenth year following their date and on any interest payment date thereafter on such terms and conditions as shall be provided by the bond commission in the resolution authorizing the issuance of such series; provided, however, that the redemption price required to be paid in order to redeem any bond of any series prior to maturity shall not exceed the face amount of such bond plus accrued interest thereon to the date fixed for redemption and a premium not exceeding three percent of the face amount of such bond. Any or all of the bonds subject to redemption at the option of the state may be called for redemption by the bond commission pursuant to a resolution adopted thereby if, pursuant to appropriations theretofore made by the legislature, the moneys required for such redemption are at the time held in the state treasury or if such redemption is to be effected with moneys provided by the sale and issuance of refunding bonds pursuant to Section 10 of this act. The bond commission may provide terms and conditions under which any of the bonds may be exchanged for like bonds of other denominations and converted from bearer bonds into bonds registered as to principal or interest or both, as the bond commission may prescribe, and again converted into bearer bonds.

**Section 5.** Sale of the Bonds. The bonds of each series may be sold by the bond commission at public sale, with competitive bidding, at such price or prices and on such terms and conditions as the bond commission shall determine to be in the best interest of the state.

**Section 6.** Execution of the Bonds. The bonds shall be executed in the name of the state by the Governor and countersigned by the director of finance, and the great seal of the state shall be impressed thereon and attested by the secretary of state. Notwithstanding any other laws now in effect with respect to the execution of bonds or other obligations of the state, a facsimile of the signature of each such official may be imprinted on any of the bonds in lieu of being manually inscribed thereon, and a facsimile of the great seal of the state may be printed on the bonds in lieu of such seal being manually impressed thereon. The coupons (if any) evidencing any installment of interest on the bonds shall be executed with a facsimile of the signature of the state treasurer. Each such facsimile of the great seal of the state so used shall be valid in all respects as if such seal had been manually impressed on the bonds. In the event any official who shall sign any of the bonds or whose facsimile signature

shall appear thereon or on the coupons applicable thereto shall thereafter cease to hold office before such bonds or coupons are delivered and paid for, such bonds and coupons shall nevertheless be valid for all purposes to the same extent as if the official who signed such or whose facsimile signature appears thereon had remained in office until all of the bonds and coupons bearing such signature or facsimile thereof shall have been delivered and paid for.

**Section 7.** Investment of Bond Proceeds Pending Expenditure Thereof; Payment of Issuance Expenses. The proceeds derived from the sale of each series of the bonds shall be paid into the state treasury upon receipt thereof, and the state treasurer shall keep such proceeds, as well as all income received from the investment and reinvestment of such proceeds (including income derived from the investment and reinvestment of previously derived income), in one or more separate accounts of the state treasury pending the expenditure of such proceeds and income for the purposes hereinafter authorized. All proceeds of the bonds deposited in the state treasury shall be continuously invested by the state treasurer in investments of the same kind as those in which the state treasurer is at the time legally authorized to invest moneys held in the general fund of the state, and as and when income from the investment of such proceeds is received, such income shall be kept continuously invested in the same manner as such proceeds. The state treasurer, acting on projections of expenditures provided by the director of finance, shall keep all proceeds of the bonds, together with the income derived from the investment and reinvestment of such proceeds, invested in investments which shall mature or otherwise be subject to liquidation on such terms as will provide cash when required for the purposes hereinafter authorized.

Upon order of the bond commission, all expenses incurred in connection with the authorization, preparation, sale and issuance of the bonds shall be paid out of the proceeds of the bonds. The proceeds of the bonds remaining after payment of such expenses, together with the income derived from the investment and reinvestment of such proceeds (including income derived from the investment and reinvestment of previously derived income) shall be used for the purposes hereinafter authorized.

**Section 8.** Federal Channel at Bayou La Batre, Alabama. Bond proceeds and investment income in an amount not exceeding six million dollars (\$6,000,000) are hereby appropriated for payment of sixty (60) percent of the non-federal share of the costs of the internal improvements by fulfilling the requirements of local contribution, participation and cooperation now or hereafter established by the United States in connection with the deepening, widening and extending of the existing federal channel at Bayou La Batre, Alabama.

**Section 9.** Improvement at State Docks Facilities. Bond proceeds and investment income in an amount equal to the entire available bond proceeds and investment income remaining after provision for the appropriation made by Section 8 of this act and provisions for any payments required to be made to the United States of America pursuant to Section 11 of this act, are hereby appropriated for payment of acquisition, development, construction, improvement, expansion, and modernization (or any of them) of general cargo handling facilities of the state docks at the Port of Mobile.

**Section 10.** Refunding Bonds. Pursuant to the provisions of the bond amendment and this act, the bond commission may, at any time and from time to time, issue refunding bonds of the state for the purpose of refunding any or all of the bonds then outstanding (including any refunding bonds that may have been previously issued), whether such refunding shall occur before, at or after the maturity of the bonds to be refunded. In the discretion of the bond commission, refunding bonds may be issued in exchange for outstanding bonds or they may be sold and the proceeds thereof applied to the purchase, redemption or payment of outstanding bonds. Refunding bonds to be issued in exchange for outstanding bonds shall not be issued in a principal amount greater than the principal amount of the bonds to be refunded. Refunding bonds to be sold may be issued in such principal amount as shall be determined by the bond commission, provided that such refunding bonds shall not be sold and issued in an aggregate principal amount exceeding the sum of (i) the outstanding principal amount of the bonds to be refunded, (ii) the interest accrued or to accrue on the bonds to be refunded until the respective maturities thereof, or if the bonds to be refunded are to be called for redemption (either on the earliest date on which under their terms they may be redeemed or some later date or dates), the interest accrued or to accrue thereon until the date or dates on which they are to be called for redemption, (iii) the amount of any redemption premium required, by the terms of the bonds, to be paid as a condition to their redemption prior to their respective maturities, and (iv) the amount of any expenses (actual or estimated) of such refunding, including the expenses of selling and issuing the refunding bonds (including any discount reflected in the purchase price thereof paid to the state), fees and disbursements of attorneys, accounts, financial advisors and other consultants, fees and disbursements of trustees and escrow agents, printing costs and other customary bond issuance expenses. No refunding bonds shall mature later than twenty-five (25) years after their date.

Pending the application of the proceeds of refunding bonds issued in accordance with this section, such proceeds, together with investment income therefrom, and moneys in any sinking funds for the bonds to be refunded, together with investment income therefrom,

may be held by the state treasurer, in trust, on such terms as the state treasurer shall approve, with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company within or without the state, for investment in direct general obligations of, or obligations the payment of the principal of and interest on which are unconditionally and irrevocably guaranteed by, the United States of America. The proceeds of refunding bonds, together with the investment income therefrom, and moneys in any sinking fund for the bonds to be refunded, together with investment income therefrom, shall be available for the payment of all or any part of the principal, interest and redemption premium, if any, of the bonds to be refunded and of the refunding bonds, or any of them, as the bond commission in its discretion shall prescribe.

Proceeds of refunding bonds shall be so invested and applied as to assure that the principal, interest and redemption premium, if any, on the bonds to be refunded shall be paid in full on their respective maturity, interest or redemption payment dates. The state treasurer may contract with respect to the safekeeping and application of proceeds derived from the sale and issuance of refunding bonds and other funds included therewith and the income therefrom, including the right to appoint a trustee which may be any trust company or national or state bank having powers of a trust company within or without the state. As provided in the bond amendment, refunding bonds issued pursuant to the provisions of this act shall be general obligations of the state, and the full faith and credit of the state are hereby irrevocably pledged for the prompt and faithful payment of the principal of all refunding bonds and the interest and redemption premium (if any) thereon. Except as herein expressly provided otherwise, all provisions of this act regarding the terms and conditions of the bonds, the sale, issuance and execution thereof and the security therefor shall apply to all refunding bonds issued hereunder.

**Section 11. Rebate and Investment of Funds.** The bond commission shall have the power to direct the state treasurer to make such payments to the United States of America as the bond commission deems necessary to cause the interest on any bonds and refunding bonds to be and remain excluded from gross income for federal income tax purposes. The bond commission shall have the power to make agreements or direct the state treasurer to make agreements respecting the investment of bond proceeds and investment income necessary in order that the interest income on bonds and refunding bonds of the authority be and remain excluded from gross income for federal income tax purposes.

**Section 12. Tax Exemption.** All bonds and refunding bonds issued pursuant to the provisions of this act, and the income therefrom



(including the interest income thereon) shall at all times be free from taxation by the state or any county, municipality or other political subdivision or instrumentality of the state, excepting inheritance, estate and gift taxes.

**Section 13.** Severability. If any provision of this act shall be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision hereof.

**Section 14.** Effective Date. This act shall become effective upon the adoption of the bond amendment proposed by Act No. 89-799, 1989 Regular Session, as a part of the Constitution of Alabama of 1901.

Approved April 23, 1990

Time: 11:51 P.M.

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Act No. 90-600

S. 468—Senator Dial

### AN ACT

To amend Section 18 of Act No. 205 passed during the 1955 Regular Session of the Alabama Legislature, pertaining to the Alabama Building Authority.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 18 of Act No. 205, 1955 Regular Session, is hereby amended to read as follows:

**Section 18.** Dissolution of the Corporation.—When all securities issued by the corporation and all obligations assumed by it under the provisions of this Act (other than obligations authorized herein to be transferred and assumed) shall have been paid in full, the then president of the corporation shall thereupon execute and deliver in the name of and in behalf of the corporation an appropriate deed, to which the seal of the corporation shall be affixed and attested by the secretary of the corporation, whereby there shall be conveyed to the State all the buildings and other properties theretofore conveyed to the corporation; provided, however, that any funds of the corporation shall be transferred and paid over to the Alabama Building Renovation Finance Authority authorized to be formed by Senate Bill 472 of the 1990 Regular Session of the Alabama Legislature and any remaining liabilities of the corporation (excluding obligations for payment of principal, interest, and premium, if any, on securities issued by the corporation) shall be transferred to and assumed by the said Alabama Building Renovation Finance Authority in an amount not exceeding the funds transferred to the Alabama Building

Renovation Finance Authority. If the Alabama Building Renovation Finance Authority is not formed on or before January 1, 1991, any funds authorized herein to be transferred to said Authority shall be transferred to the State. The then officers and directors of the corporation shall, after transfer of all assets of the corporation as provided herein, file with the secretary of state a written statement, subscribed and sworn to by each of them, reciting the payment in full of all securities theretofore issued and assumed by the corporation and the execution and delivery of such deed to the State and payment of any such funds to the Alabama Building Renovation Finance Authority, which statement shall be filed by the secretary of state and recorded with the certificate of incorporation of the corporation, whereupon the corporation shall stand dissolved.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 11:52 P.M.

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Act No. 90-601

S. 469—Senator Dial

### AN ACT

To amend Section 25 of Act No. 658 passed during the 1961 Regular Session of the Alabama Legislature, pertaining to the Alabama Building Finance Authority.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 25 of Act No. 658, 1961 Regular Session, is hereby amended to read as follows:

**Section 25.** Dissolution of the Authority.—When all securities issued by the Authority and all obligations assumed by it under the provisions of this Act (other than obligations authorized herein to be transferred and assumed) shall have been paid in full, the then president of the Authority shall thereupon execute and deliver in the name of and in behalf of the Authority an appropriate deed, or deeds, to which the seal of the Authority shall be affixed and attested by the secretary of the Authority, whereby there shall be conveyed to the state all the buildings, properties and other assets then owned by the Authority; provided, however, that any funds of the Authority shall be transferred and paid over to the Alabama Building Renovation Finance Authority authorized to be formed by Senate Bill 472 of the 1990 Regular Session of the Alabama Legislature and any remaining liabilities of the Authority (excluding obligations for payment

of principal, interest, and premium, if any, on securities issued by the Authority) shall be transferred to and assumed by the said Alabama Building Renovation Finance Authority in an amount not exceeding the funds transferred to the Alabama Building Renovation Finance Authority. If the Alabama Building Renovation Finance Authority is not formed on or before January 1, 1991, any funds authorized herein to be transferred to said Authority shall be transferred to the state. The then officers and directors of the Authority shall, after transfer of all assets of the Authority as provided herein, file with the Secretary of State a written statement, subscribed and sworn to by each of them, reciting the payment in full of all bonds theretofore issued by the Authority and the execution and delivery of such deed or deeds to the state and payment of any such funds to the Alabama Building Renovation Finance Authority, which statement shall be filed by the Secretary of State and recorded with the certificate of incorporation of the Authority, whereupon the Authority shall stand dissolved.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 11:53 P.M.

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Act No. 90-602

S. 472—Senator Dial

## AN ACT

To authorize the Governor, the Director of Finance, and the State Treasurer to become a public corporation to be known as Alabama Building Renovation Finance Authority; to provide the procedure for incorporation, to designate the members, directors, and officers of the Authority; to prescribe the powers of the Authority, including the power to provide for the renovation, reconstruction, improvement, alteration, and equipment of public office buildings, the power of eminent domain and the power to sell and issue not exceeding \$29,500,000 principal amount of bonds for such purposes; to authorize the issuance of refunding bonds; to provide for the investment of the proceeds from the sale of the bonds of the Authority; to provide that all properties of the Authority and the income therefrom and all bonds issued and the income therefrom and all leases made and all lien notices filed shall be exempt from all taxation in the State of Alabama; to provide that such bonds shall constitute negotiable instruments; to provide that such bonds shall be payable solely out of revenues of the Authority and shall not create an obligation or debt of the State; to provide that any bonds issued by the Authority may be used as security for deposits and investment of public funds and fiduciary funds; to provide for the renovation, reconstruction, improvement, alteration, equipment, operation and maintenance of public office buildings, including the state capitol, by the Authority; to authorize the conveyance to said Authority of property owned by the State; to create a reserve fund

for the benefit of the bonds of the Authority; to authorize the Authority to pledge such revenues from the facilities as may be necessary to pay the principal of and interest on its bonds; to authorize the filing for record of an instrument reciting the issuance of said bonds and the creation of said pledge as a lien on said revenues which filing will constitute constructive notice; to provide that the State Treasurer shall be the custodian of the funds of the Authority; to provide for the lease to and by agencies, boards, commissions, public corporations, bureaus and departments of the State of Alabama of space for occupancy in said public office buildings; to authorize publication of notice of the resolution authorizing any bonds or pledge and to specify a limitation of time thereafter for actions respecting said bonds or pledge; to empower the Authority to make payments to the United States of America; and to provide for dissolution of said Authority and conveyance of its assets and properties to the State upon payment of said bonds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Intent. It is the intent of the Legislature by the passage of this Act to authorize the incorporation of the Governor, the Director of Finance, and the State Treasurer as a public corporation for the sole purpose of renovating, reconstructing, improving, altering, equipping, operating and maintaining or contracting for the renovation, reconstruction, improvement, alteration, equipment, operation and maintenance of public office buildings, including the state capitol, and to vest such corporation with all powers, authority, rights, privileges, and titles that may be necessary to enable it to accomplish such purpose. This Act shall be liberally construed in conformity with the purpose expressed.

**Section 2.** Definitions. The following terms, wherever used in this Act, shall have the following respective meanings unless the context clearly indicates otherwise:

“Authority” means the public corporation organized pursuant to the provisions of this Act.

“Bonds” means the bonds issued under the provisions of this Act.

“Government Securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

“Permitted Investments” means (i) Government Securities; (ii) bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home

Loan Banks; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks, or Farmers Home Administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof; (iii) bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Association and participation certificates of Federal Home Loan Mortgage Corporation; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, provided that, to the extent such time deposits exceed available federal deposit insurance, such time deposits are fully secured by obligations described in clauses (i), (ii), (iii), and (v) above, which at all times have a market value (exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest and which meet the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings, (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements and which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and (viii) uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

"Refunding Bonds" means those refunding bonds authorized in this Act to be sold and issued by the Authority.

"State" means the State of Alabama.

Pronouns when used in this Act shall include all applicable genders.

**Section 3.** Power to Incorporate. The Governor, the Director of Finance, and the State Treasurer may become a public corporation with the power and authority hereinafter provided, by proceeding according to the provisions of this Act.

**Section 4.** Provisions for Incorporation. To become a corporation, the Governor, the Director of Finance, and the State Treasurer shall present to the Secretary of State of Alabama an application signed by them which shall set forth: (1) the name, official designation, and official residence of each of the applicants, together with a certified copy of the document evidencing each applicant's right to office; (2) the date on which each applicant was inducted into office and the term of office of each of the applicants; (3) the name of the proposed corporation, which shall be the Alabama Building Renovation Finance Authority; (4) the location of the principal office of the proposed corporation; and (5) any other matter relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this Act or the laws of the State. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of this state to take acknowledgements to deeds. The Secretary of State shall examine the application and, if he finds that it substantially complies with the requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

**Section 5.** Consummation of Incorporation. When the application has been made, filed, and recorded as provided in the preceding section, the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this Act, under the Great Seal of the State, and shall record the certificate with the application, whereupon the applicants shall constitute a public corporation and agency of the state under the name proposed in the application. There shall be no fees paid to the Secretary of State for any work done in connection with the incorporation or dissolution of the Authority.

**Section 6.** Members, Directors and Officers of the Authority. The applicants named in the application and their respective successors in office shall constitute the members of the Authority. The Governor shall be the president of the Authority, the Director of Finance shall be the secretary of the Authority and the State Treasurer shall be treasurer of the Authority. The members of the Authority shall constitute all the members of the board of directors of the Authority, which shall be the governing body of the Authority. A majority of the members of the said board of directors shall constitute a quorum for the transaction of business. Should any person holding any state office named in this section cease to hold such office by reason of death, resignation, expiration of his term of office, or for

any other reason, then his successor in office shall take his place as a member, officer, or director, as the case may be, of the Authority. No member, officer, or director of the Authority shall draw any salary in addition to that now authorized by law for any service he may render or for any duty he may perform in connection with the Authority. All resolutions adopted by the board of directors shall constitute actions of the Authority, and all proceedings of the board of directors shall be reduced to writing by the secretary of the Authority, shall be signed by the members of the Authority, and shall be recorded in a substantially bound book and maintained in the office of the Director of Finance. Copies of such proceedings, when certified by the secretary of the Authority, under the seal of the Authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

**Section 7.** Powers of the Authority. The Authority shall have the following powers among others specified in this Act: (1) to have succession by its corporate name until dissolved as provided in this Act; (2) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties thereto; (3) to have and to use a corporate seal and to alter the same at pleasure; (4) to make and alter all needful bylaws, rules and regulations for the transaction of the Authority's business and the control of its property and affairs; (5) to establish a fiscal year; (6) to provide for the renovation, reconstruction, improvement, alteration, equipment, operation and maintenance of public office building facilities, including the state capitol, and for the procurement of sites and equipment for such facilities; (7) to receive, take and hold by sale, gift, lease, devise or otherwise, real and personal property of every description, and to manage the same; (8) to acquire by purchase, gift, or any other lawful means, and to transfer, convey or cause to be conveyed to the state, any real, personal or mixed property; (9) to borrow money and issue its bonds in evidence thereof subject to the provisions of this Act; (10) to anticipate by the issuance of its bonds as hereinafter limited the receipt of the revenues from such public office buildings; (11) as security for the payment of the principal of and interest on its bonds, to enter into any lawful covenant and to pledge the revenues from such public office buildings; (12) to invest as hereinafter provided the proceeds from the sale of its bonds pending need therefor; (13) to make and enter into such contracts, leases, agreements and other actions as may be necessary or desirable to accomplish any corporate purpose and to exercise any power necessary for the accomplishment of the purposes of the Authority or incidental to the powers expressly set out herein; (14) to appoint and employ such attorneys, agents, advisors, independent contractors, and employees as may, in the judgment of the board of directors, be necessary or desirable; and (15) to contract, lease and make lease arrangements

as hereinafter provided for the use and occupation of all or any part of the public office buildings renovated, reconstructed, altered, maintained or improved by it, other than the state capitol.

**Section 8.** Power of Condemnation. The Authority shall have the same powers of eminent domain which shall be exercised in the same manner and under the same conditions as are provided by law for the exercise of the powers of eminent domain by the State of Alabama.

**Section 9.** Authorization of Bonds. The Authority is hereby authorized from time to time to sell and issue its bonds, not exceeding twenty-nine million five hundred thousand dollars (\$29,500,000), exclusive of refunding bonds, in aggregate principal amount, for the purpose of providing funds for the renovation, reconstruction, improvement and alteration of public office building facilities, including the state capitol, for the procurement of equipment therefor, and for payment of obligations incurred for any of said purposes.

**Section 10.** Refunding Bonds. The Authority may from time to time sell and issue its refunding bonds for the purpose of refunding any matured or unmatured bonds of the Authority at the time outstanding and paying any premiums necessary to be paid to redeem any bonds so to be refunded; provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 95% of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the refunding bonds, as measured from the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined. Such refunding bonds shall be subrogated and entitled to all priorities, rights and pledges to which the bonds refunded thereby were entitled.



**Section 11.** Execution of Bonds. All bonds of the Authority shall be signed by its president, and the seal of the Authority shall be affixed thereto and attested by its secretary. The signatures of the president and secretary may be facsimile signatures and a facsimile of the seal of the Authority may be imprinted on the bonds if the board of directors, in its proceedings with respect to issuance of such bonds, provides for manual authentication of such bonds by a trustee or paying agent or by named individuals who are employees of the state and who are assigned to the department of finance or office of the state treasurer. Delivery of bonds so executed shall be valid notwithstanding any changes in officers or in the seal of the Authority after the signing and sealing of such bonds.

**Section 12.** Sale of Bonds. Bonds may be sold by the Authority from time to time in series, and if sold in more than one series may all be authorized in one initial resolution of the board of directors with the pledges therefor made in such initial resolution although some of the details applicable to each series may be specified in the respective resolutions under which the different series are issued. Each series of the bonds may be sold at public or private sale, as determined by the Authority, at such price or prices as the Authority shall determine, and, if sold at public sale either on sealed bids or at public auction, to the bidder whose bid reflects the lowest total net interest cost to the Authority for the series of the bonds being sold, computed from the date of those at the time being sold to their respective maturities and taking into account any premium or discount named in the bid therefor; provided, that if in the event of public sale of the bonds no bid acceptable to the Authority is received it may reject all bids. Notice of each public sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the State which is customarily published not less than five days during each calendar week, each of which notices must be published at least one time not less than ten days prior to the date fixed for the sale. The board of directors may fix the terms and conditions under which each such sale may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this Act. Approval by the Governor of the terms and conditions under which any of the bonds may be issued shall be requisite to their validity, which approval signed by the Governor shall be entered on the minutes of the respective meetings of the board of directors at which the series of the bonds proposed to be issued are authorized or sold.

**Section 13.** Bonds of the Authority. Any bonds of the Authority may be executed and delivered by it at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest, payable

and evidenced in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions not inconsistent herewith, all as may be provided by the resolution of the board of directors whereunder such bonds are authorized to be issued; provided, that no bond of the Authority shall have a specified maturity date later than thirty years after its date. Each bond of the Authority having a specified maturity date more than ten years after its date shall be made subject to redemption at the option of the Authority at the end of the tenth year after its date, and on any interest payment date thereafter, under such terms and conditions and at such premiums, if any, as may be provided in the resolution under which such bond is authorized to be issued. The Authority may pay out the proceeds of the sale of its bonds all expenses, including fees and disbursements of attorneys, accountants, fiscal agents, financial advisors and other consultants, fees and disbursements of trustees, escrow agents, registrars, paying agents, transfer agents, depositories for safekeeping, authenticating agents, agents for the delivery and payment of bonds, fees and commissions of bond insurers and credit enhancers, printing costs and other customary bond issuance expenses. Bonds issued by the Authority shall not be general obligations of the Authority but shall be payable solely out of the funds referred to in Section 22 hereof. In the event the Authority shall make more than one pledge of the same revenues, such pledges shall take precedence in the order of the adoption of the resolutions in which the pledges are made; provided, that each pledge for the benefit of refunding bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby. Neither a public hearing nor consent of the State Department of Finance or any other department or agency of the State shall be a prerequisite to the issuance of bonds by the Authority.

**Section 14.** Investment of Proceeds from Sale of Bonds. Any portion of the principal proceeds derived from the sale of the bonds which the board of directors of the Authority may determine is not then needed for any of the purposes for which the bonds are authorized to be issued shall, on order of the Authority, be invested by the State Treasurer in Permitted Investments. Any such securities may, at any time and from time to time on order of the Authority, be sold or otherwise converted by the State Treasurer into cash. The income derived from any such investments shall be disbursed on order of the Authority for any purpose for which the Authority may lawfully expend funds.

**Section 15.** Exemption from Taxation. The properties of the Authority and the income therefrom, all lease agreements made by the Authority, and all bonds issued by the Authority and the income therefrom and all lien notices filed with respect thereto shall be forever exempt from any and all taxation in the State of Alabama.

**Section 16.** Bonds Constitute Negotiable Instruments. All bonds issued by the Authority shall be construed to have all the qualities and incidents of negotiable instruments subject to the registration provisions pertaining to transfers.

**Section 17.** Obligations Not a Debt of the State. All obligations incurred by the Authority and all bonds issued by it shall be solely and exclusively an obligation of the Authority and shall not create an obligation or debt of the State of Alabama.

**Section 18.** Bonds May Be Used to Secure Deposit and for Investment of Fiduciary Funds. The State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds of the Authority, and such bonds shall be authorized security for all public deposits, it being the purpose of this Act to authorize any persons, firms, corporations, associations, political subdivisions, bodies, and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds, and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this Act with regard to legal investments shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

**Section 19.** Use of the Proceeds from Sale of Bonds. All proceeds derived from the sale of any bonds (except refunding bonds) sold by the Authority remaining after payment of the expenses of issuance thereof shall be turned over to the State Treasurer, shall be carried by the State Treasurer in a special account to the credit of the Authority, and shall be subject to be drawn on by the Authority solely for the purposes of renovating, reconstructing, improving, altering and equipping one or more public office buildings, including the state capitol, and all reasonable and necessary expenses incidental thereto, including interest which shall accrue on said bonds during the renovation, reconstruction, improvement, alteration and equipping of said buildings and for a period not exceeding one year thereafter. The Authority is specifically authorized and empowered to expend bond proceeds to pay a portion of the cost of renovation and equipping of the state capitol even though the said state capitol shall not be

owned by the Authority. Any balance of said proceeds thereafter remaining shall, upon completion of renovation of the building or buildings for which the bonds were issued and the payment of all costs in connection therewith, be transferred to the reserve fund account of the Authority or used to redeem bonds issued by the Authority as may be determined by the board of directors of the Authority.

**Section 20.** Use of Proceeds of Refunding Bonds. The proceeds of Refunding Bonds shall be applied, together with any other moneys legally available therefor, to the payment of the expenses authorized by this act and to the payment of the principal of, premium, if any, and interest due and to become due on any outstanding bonds to be refunded thereby and, if so required by resolution of the Authority, shall be deposited in the State treasury in an interest account to pay interest on Refunding Bonds, and in the State treasury in a reserve account to further secure the payment of the principal of, premium, if any, and interest on any Refunding Bonds. The expenses authorized by this Act shall include, in addition to expenses authorized by other sections hereof, all expenses that the board of directors may deem necessary or advantageous in connection with the sale and issuance of such Refunding Bonds, including without limitation, the expenses of selling and issuing such Refunding Bonds (including any discount reflected in the purchase price thereof paid to the Authority), fees and disbursements of attorneys, accountants, fiscal agents, financial advisors and other consultants, fees and disbursements of trustees, escrow agents, registrars, paying agents, transfer agents, depositories for safekeeping, authenticating agents, agents for the delivery and payment of bonds, fees and commissions of bond insurers and credit enhancers, printing costs and other customary bond issuance expenses. To the extent not required for the immediate payment of outstanding bonds or for deposit into an interest account or a reserve account, proceeds of Refunding Bonds together with any other moneys legally available therefor, shall be deposited with the State Treasurer, in trust, to be held separate and apart from all other funds of the State, or, with the approval of the State Treasurer, shall be deposited in trust, on such terms as the State Treasurer shall approve, with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks, located either within or without the State, having powers of a trust company. Any such proceeds or moneys deposited in trust with the State Treasurer or with one or more trustees or escrow agents shall be applied solely to the payment when due of the principal of, premium, if any, and interest due and to become due on the outstanding bonds on or prior to the redemption date or maturity date thereof, as the case may be. Any such proceeds or moneys so held by the State Treasurer or deposited with one or more trustees or

escrow agents, may be invested in Government Securities; provided, such Government Securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as provided in the immediately succeeding sentence, neither the Government Securities nor moneys so deposited with the State Treasurer, or with one or more trustees or escrow agents, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on such outstanding bonds to be refunded thereby; provided that any cash received from such principal or interest payments on such Government Securities deposited with the State Treasurer, or with one or more trustees or escrow agents, (a) to the extent such cash will not be required at any time for such purpose, shall be retained by, or paid over to the State Treasurer, as the case may be, for deposit to the account of the Authority, and (b) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in Government Securities maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest on such outstanding bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of such outstanding bonds shall be retained by, or paid over to the State Treasurer, as the case may be, for deposit to the account of the Authority. Notwithstanding anything to the contrary contained herein: (a) moneys on deposit pursuant to the provisions of this Section may be applied and Government Securities so deposited may be redeemed and sold and the proceeds thereof applied to (i) the purchase of the outstanding bonds which were refunded by the deposit with the State Treasurer or with one or more trustees or escrow agents of such moneys and Government Securities and immediately thereafter all outstanding bonds so purchased shall be cancelled, or (ii) the purchase of different Government Securities; provided, however, that the moneys and Government Securities on deposit with the State Treasurer or with one or more trustees or escrow agents after such purchase and cancellation of such outstanding bonds or such purchase of different Government Securities shall be sufficient to pay when due the principal of, premium, if any, and interest on all other outstanding bonds in respect of which such moneys and Government Securities were deposited on or prior to the redemption date or maturity date thereof, as the case may be; and (b) in the event that on any date, as a result of any purchases and cancellations of outstanding bonds or any purchases of different Government Securities as provided in this sentence, the total amount of moneys and Government Securities remaining on deposit with the State Treasurer or with one or more trustees or escrow agents, is in excess of the total amount which would have been required to be deposited

with the State Treasurer or trustee or escrow agent on such date in respect of the remaining outstanding bonds for which such deposit was made in order to pay when due the principal of, premium, if any, and interest on such remaining outstanding bonds, the State Treasurer shall deposit the amount of such excess in the account of the Authority, or the trustee or escrow agent shall, upon the direction of the State Treasurer, pay the amount of such excess to the State Treasurer for deposit to the account of the Authority.

The State Treasurer, acting in the capacity of trustee, may name one or more trust companies, national banks, or state banks, located either within or without the State, to act as the State Treasurer's depository for any funds escrowed pursuant to the provisions of this section.

All applications of proceeds of Refunding Bonds or other moneys deposited in trust for the payment of outstanding bonds as provided in this Section, including without limitation the investment thereof and the sale of any related Government Securities, shall be at the direction of the Authority, but subject to the prior approval of the State Treasurer. Any such approval of the State Treasurer may be given at any time, including without limitation at the time of the adoption by the board of directors of any resolution relating to any bonds and, once given, such approval shall be irrevocable.

Moneys on deposit in any reserve account created pursuant to the provisions of this Section shall be invested by the State Treasurer at the direction of the Authority in Permitted Investments which mature at such time or times as the Authority shall direct. Interest income earned from such investments shall be deposited as received by the State Treasurer in the account of the Authority.

**Section 21.** Conveyance to Authority by State. The Governor of Alabama is authorized to execute and deliver immediately before or simultaneously with the issuance of the first bonds of the Authority an appropriate deed or deeds conveying to the Authority any land belonging to the State situated in the city and county of Montgomery upon which the following buildings are located, such buildings being referred to herein by their commonly known names:

- (1) Alabama State House
- (2) Folsom Administrative Building
- (3) Public Health Building
- (4) Judicial Building
- (5) Public Safety Building
- (6) Archives and History Building

## (7) State Office Building

Upon delivery of such deed or deeds to the Authority it thereby shall be invested with all rights and title that the State of Alabama had in the property conveyed thereby, subject to the right of reverter to the State upon the dissolution of the Authority. The consideration for said conveyance shall be the Authority's agreement to reconvey said land to the State, with all improvements thereon free of charge, immediately before the dissolution of the Authority. Said consideration is hereby conclusively determined to be valuable, adequate and fair. Immediately prior to its dissolution the Authority shall also convey to the State all other assets acquired by the Authority, whether by purchase, gift, grant or otherwise, provided the terms of the grant are not violated thereby.

**Section 22.** Creation of Fund for the Benefit of the Bonds. For the purpose of providing funds for the payment of the principal of and interest on the bonds issued by the Authority under the provisions of this Act, there is hereby created and irrevocably pledged to the payment of such obligations a special and continuing trust fund which shall consist of all receipts and income from rents contracted for and received by the Authority under leases of the building or buildings constructed or renovated with the proceeds from sale of the bonds and any other income of the Authority.

**Section 23.** Pledge and Lien for Benefit of Bonds. In the proceedings authorizing the issuance of any of its bonds, the Authority is authorized and empowered to pledge for the payment of the principal of and interest on such bonds at the respective maturities of said principal and interest, and to agree to use solely for such purpose, all the revenues which under the provisions of Section 22 hereof are provided for the payment of the said principal and interest. In said proceedings the Authority may further provide and create, as security for the payment of said principal and interest, a statutory lien upon the buildings and properties, other than the state capitol, for the acquisition and construction or renovation of which the bonds are issued. Such statutory lien shall not be subject to foreclosure and, in the event of default in the payment of any such principal or interest, the remedies thereunder shall be limited to a remedy by way of mandamus and to the appointment, as a matter of right, by any court having equity powers and having jurisdiction over the Authority, of a receiver in equity with all the powers of such a receiver, except the power to sell the said buildings and properties. Upon the issuance of any bonds pursuant to this Act the Authority shall file in the office of the Judge of Probate of Montgomery County, Alabama, an instrument reciting the issuance of such bonds and the pledge of said revenues and the creation of said statutory lien as security therefor, and the filing of such instrument shall constitute

constructive notice of said pledge and lien. Such instrument shall be received and recorded by said Judge of Probate upon the payment of the fee for the recording of mortgages but no tax shall be payable with respect thereto.

**Section 24.** State Treasurer to Disburse Funds. Out of the revenues referred to in Section 22 hereof, the State Treasurer is authorized and directed to pay the principal of and interest on the bonds as such principal and interest shall respectively mature, and he is further authorized and directed to set up and maintain appropriate records pertaining thereto.

**Section 25.** Terms and Conditions of Leasing by Authority. The Authority and the executive head of any agency, board, commission, public corporation, bureau or department of the State of Alabama, or the successor in office and duties of such executive head, are hereby authorized to enter into a lease or leases for the use and occupancy of offices and storage space in the public office buildings renovated, reconstructed, improved, altered or equipped and owned by the Authority under the provisions of this Act. Such executive heads are hereby separately authorized to enter into lease agreements for the use and occupancy of any space in the said buildings. The Authority and the Director of Finance on behalf of the Finance Department are hereby authorized to enter into a lease or leases for the use and occupancy of any or all of said buildings. In such event, the Finance Department may sublease space in said buildings upon such terms and conditions as may be determined by the Director of Finance.

**Section 26.** Presumption of Validity of Bonds and Publication of Notice Thereof. Any resolution authorizing any bonds hereunder shall contain a recital that they are issued pursuant to the provisions of this Act, which recital shall be conclusive evidence that said bonds have been duly authorized pursuant to the provisions of this Act, notwithstanding the provisions of any other law now in force or hereafter enacted or amended. Upon the passage of any resolution providing for the issuance of bonds under the provisions of this Act, the Authority may, in its discretion, cause to be published once in each of two consecutive weeks in a newspaper published and having general circulation in the City of Montgomery a notice in substantially the following form (the blanks being first properly filled in):

“Alabama Building Renovation Finance Authority, a public corporation and agency of the State of Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, adopted a resolution providing for the issuance of \_\_\_\_\_ dollars principal amount of bonds of said Authority. Any action or proceeding questioning the validity of said resolution or said bonds or the pledge and agreements made in said resolution for the benefit



thereof, or the proceedings under which said bonds, pledge and agreements were authorized, must be commenced within twenty days after the first publication of this notice.

Alabama Building Renovation Finance Authority

By \_\_\_\_\_  
Its President"

Any action or proceeding in any court seeking to set aside or invalidate a resolution providing for the issuance of bonds under the provisions of this Act or to contest the validity of any such bonds, or the validity of any pledge or agreement made therefor, must be commenced within twenty (20) days after the first publication of said notice. After the expiration of twenty (20) days following such first publication, no right of action founded upon questioning or challenging in any way the validity of the resolution or other proceedings, if any, or of the bonds, or of the pledge and agreements, shall be asserted. In the event of such publication the validity of such resolution, proceedings, bonds, pledge and agreements shall not be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. Any such action and any action to protect or enforce any rights under the provisions of this Act shall be brought in the Circuit Court of Montgomery County.

**Section 27.** The Authority shall have the power to make such payments to the United States of America as the directors deem necessary to cause the interest on any bonds of the Authority to be and remain exempt from federal income taxation. The Authority shall have the power to make agreements respecting the investment of funds of the Authority necessary in order that the interest income on bonds of the Authority be and remain exempt from federal income taxation.

**Section 28.** Dissolution of the Authority. When all securities issued by the Authority and all obligations assumed by it under the provisions of this Act shall have been paid in full, the then president of the Authority shall thereupon execute and deliver in the name of and in behalf of the Authority an appropriate deed, or deeds, to which the seal of the Authority shall be affixed and attested by the secretary of the Authority, whereby there shall be conveyed to the state all the buildings, properties and other assets then owned by the Authority. The then officers and directors of the Authority shall at such time file with the Secretary of State a written statement, subscribed and sworn to by each of them, reciting the payment in full of all bonds therefore issued by the Authority and the execution and delivery of such deed or deeds to the state, which statement shall be filed by the Secretary of State and recorded with the certificate

of incorporation of the Authority, whereupon the Authority shall stand dissolved.

**Section 29.** The provisions of this Act are severable. In the event any section or part thereof is declared invalid, such declaration shall not affect the part and sections which remain.

**Section 30.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 11:54 P.M.

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Act No. 90-603

S. 207—Senator Dial

### AN ACT

To provide for the incorporation of the Alabama State Parking Deck Authority; to provide for the Authority's members, officers and directors; to empower the Authority to acquire, and hold title to real and personal property and to sell, convey or lease that property; to provide for the leasing of facilities owned by the Authority to certain entities; to empower the Authority to sell and issue its notes, bonds and refunding bonds, to grant mortgages upon, and security interests in its facilities and to pledge for payment of its notes, bonds and refunding bonds the rents and revenues from such facilities, the proceeds from the sale of such facilities, unexpended note or bond proceeds, insurance proceeds and/or mortgage or security interests in the Authority's facilities; to confer on the Authority the same power of eminent domain as that possessed by the state; to provide for temporary loans in anticipation of the issuance of bonds; to provide for the disposition of proceeds from the sale of bonds or refunding bonds issued by the Authority; to exempt from taxation the income and property of the Authority, all lien notices with respect thereto, the interest on the notes and bonds of the Authority and all purchases and uses of property by the Authority; to provide that venue for any action arising out of this act shall be in the circuit court of Montgomery County, Alabama; to provide for dissolution of the Authority; to exempt leases of the Authority from the competitive bid law; to exempt the Authority from the Sunset Law; to provide that the provisions of this act are severable; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. For the purposes of this act, the following terms shall have the meanings respectively ascribed to them by this section:

"Authority" shall mean the public corporation organized pursuant to the provisions of this act.

"Code" shall mean the Code of Alabama 1975, as amended.

"Refunding Bonds" shall mean those refunding bonds issued under the provisions of Section 13 of this act.

“State” shall mean the State of Alabama.

“Bonds” shall mean those bonds, including without limitation Refunding Bonds, issued under the provisions of this act.

“Facilities” shall mean a multi-storied vehicle parking and storage facility and appurtenances necessary or incidental to the operation of such facility, to be constructed and erected on, or attached to, that block of land bounded by the following streets: Pelham, Jackson, Washington, and South Ripley in the Capitol Complex in the City of Montgomery, Alabama.

“Permitted Investments” means United States Securities, certificates of deposit fully secured by United State Securities and shall include investments in such obligations of the United States of America or its agencies under a repurchase agreement.

“United States Securities” means direct general obligations of the United States of America (including obligations of the state and local government series) and the obligations of any other agency corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America.

**Section 2.** Purpose of Act and Construction Thereof. It is the intent of the Legislature, by the passage of this act, to authorize the incorporation of a public corporation for the purposes of acquiring land, constructing and equipping facilities, leasing such facilities to state agencies (or others, to the extent provided for herein), and providing financing therefor, and to vest such corporation with all powers, authority, rights, privileges and titles that may be necessary to enable it to accomplish such purposes. This act shall be liberally construed in conformity with the purpose herein stated.

**Section 3.** The State Finance Director, the State Budget Officer and one person appointed by the Governor, one person appointed by the Speaker of the House and one person appointed by the Lieutenant Governor, may become a public corporation with the power and authority provided in this act by proceeding according to the provisions hereof. Those persons appointed by the Governor, Lieutenant Governor and Speaker of the House shall serve at the pleasure of the official appointing them and until their replacements have been appointed. The State Treasurer shall be treasurer of the Authority, shall act as custodian of the funds of the Authority, and shall pay the principal of and interest on the bonds of the Authority out of the funds hereinafter provided for; provided, that the State Treasurer may designate one or more banks either within or without

the state as the paying agent with respect to any series of bonds issued under this act.

**Section 4.** Application for Certificate of Incorporation. To become a corporation, the individuals selected pursuant to Section 3 hereof shall present to the secretary of state of Alabama an application signed by them which shall set forth:

(1) The name and residence of each of the applicants, together with a certified copy of all documents evidencing each applicant's selection or the office he holds;

(2) The name of the proposed corporation, which shall be the "Alabama State Parking Deck Authority";

(3) The location of the principal office of the proposed corporation, which shall be in the office of the Director of Finance in Montgomery, Alabama; and

(4) Any other matter relating to the incorporation of the proposed corporation which the applicants may choose to insert and which is not inconsistent with this act.

The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of this state to take acknowledgments to deeds. The secretary of state shall examine the application, and if he finds that it substantially complies with the requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

**Section 5.** Certificate of Incorporation. When the application has been made, filed and recorded as provided in Section 4 hereof, the secretary of state shall make and issue to the applicants a certificate of incorporation pursuant to this act, under the great seal of the state, and shall record the certificate with the application, whereupon the applicants shall constitute a public corporation of the state under the name proposed in the application.

**Section 6.** Members; Directors; Quorum; Vacancies; Salaries; Officers. The applicants named in the application and their respective successors in office shall constitute the members of the Authority. The members shall be eligible to succeed themselves. The members of the Authority shall constitute all the members of the board of directors of the Authority, which shall be the governing body of the Authority. A majority of the members of the said board of directors shall constitute a quorum for the transaction of business. No member, officer or director of the Authority shall draw any salary for any service he may render or for any duty he may perform in connection with the Authority, but may be reimbursed by the Authority for reasonable expenses incurred in carrying out the business of the

Authority. No member, officer, director or employee of the Authority shall be personally liable for any debt, obligation or liability of the Authority. The Finance Director shall serve as president of the Authority, the State Budget Officer shall serve as secretary of the Authority. The treasurer of the State of Alabama shall be the treasurer of the Authority.

**Section 7.** Resolutions and Proceedings of Board of Directors. All resolutions adopted by the board of directors shall constitute actions of the Authority, and all proceedings of the board of directors shall be reduced to writing by the secretary of the Authority, shall be signed by the members of the Authority and shall be recorded in a substantially bound book and filed in the office of the State Finance Director. Copies of such proceedings, when certified by the secretary of the Authority under the seal of the Authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

**Section 8.** Powers—Generally. The Authority shall have the following powers among others specified in this act:

(1) To have succession in its corporate name until the principal of and interest on all bonds issued by it shall have been fully paid and until it shall have been dissolved as provided herein;

(2) To maintain actions and have actions maintained against it and to prosecute and defend in any court having jurisdiction of the subject matter and of the parties thereof;

(3) To have and to use a corporate seal and to alter such seal at pleasure;

(4) To establish a fiscal year;

(5) To acquire and hold title to real and personal property and to sell, convey, mortgage or lease the same as provided in this act;

(6) To provide for the construction, reconstruction, alteration and improvement of facilities and for the procurement of sites and equipment for such facilities and for the lease thereof;

(7) To lease facilities to the state, or any agency or instrumentality of the state;

(8) To anticipate by the issuance of its bonds, subject to the provisions of this act, the receipt of the rent and revenues from such facilities;

(9) As security for the payment of the principal of and interest on its bonds, to enter into any lawful covenant, to grant mortgages upon or security interests in its facilities and to pledge the rents and revenues from such facilities;

(10) To invest as provided in this act the proceeds from the sale of its bonds pending need therefor;

(11) To appoint and employ such attorneys, agents and employees as the business of the Authority may require, subject to the merit system where applicable; and

(12) To perform such other acts and duties as are necessary to carry out the provisions of this act.

**Section 9.** Temporary Loans in Anticipation of Issuance of Bonds. In anticipation of issuance of bonds under this act, the Authority may, from time to time, borrow such sums as may be needed for any of the purposes for which bonds are authorized to be issued under this act, and in evidence of the moneys so borrowed by issue its promissory notes. The principal of and the interest on notes so issued may, from time to time, be refunded by refunding notes or by bonds in anticipation of the issuance of which such notes were issued. All such notes, whether initial issues or refunding issues, may bear interest from their dates until their maturities at such rate or rates as may be deemed acceptable by the board of directors, not to exceed 15 percent per annum, shall mature within three years from their date, and the principal thereof, premium, if any, and interest thereon shall be payable solely from the proceeds of the refunding notes issued to refund any such notes outstanding, the proceeds from the sale of bonds in anticipation of the issuance of which any such notes were issued and the sources from which bonds may be made payable pursuant to Section 20 of this act, all as may be provided in the resolution of the board of directors under which such notes may be issued.

**Section 10.** Execution of Bonds and Notes. The bonds and notes of the Authority shall be executed by the manual or facsimile signature of either its president or its secretary, as shall be provided in the resolution under which such securities shall be issued, and the seal of the Authority or a facsimile thereof shall be affixed to any bonds so issued and attested by the manual or facsimile signature of its secretary; provided, that if bonds are executed entirely by facsimile, such bonds shall be authenticated by the manual signature of the bond trustee, registrar or paying agent or by named individuals who are employees of the state and who are assigned to the department of finance or office of the state treasurer. The seal of the authority shall be impressed on the bonds, and a facsimile of said seal may be printed or otherwise reproduced on any of the bonds in lieu of being manually impressed thereon. If, after any of the bonds shall be so signed, whether manually or by facsimile, any such officer shall for any reason vacate his said office, the bonds so signed may nevertheless be delivered at any time thereafter as the act and deed of the Authority.

**Section 11. Bonds—Authorization.** For the purpose of providing funds for the acquisition of sites, for the construction, reconstruction, alteration and improvement of facilities, for the procurement and installation of equipment therefor and for payment of obligations incurred and the principal of and interest on any temporary loans made for any of the said purposes, the Authority is hereby authorized, from time to time, to sell and issue its bonds (other than Refunding Bonds) in an aggregate principal amount not to exceed thirteen million dollars (\$13,000,000).

**Section 12. Sale and Issuance of Refunding Bonds.** The Authority may, from time to time, sell and issue its Refunding Bonds, without limitation as to principal amount, for the purpose of refunding any matured or unmatured bonds of the Authority at the time outstanding and paying any premiums necessary to be paid to redeem any such bonds so to be refunded and all expenses incurred in connection therewith. Such Refunding Bonds shall be subrogated and entitled to all priorities, rights and pledges to which the bonds refunded thereby were entitled.

**Section 13. Specifications and Priority of Bonds.** Any bonds of the Authority may be executed and delivered by it at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest, fixed or floating, payable and evidenced in such manner, may contain provisions for redemption prior to maturity and may contain other provisions not inconsistent with this section, all as may be provided by the resolution of the board of directors whereunder such bonds are authorized to be issued; provided that no bond of the Authority shall have a specified maturity date later than 20 years after its date. At its election, the authority may retain in the resolution(s) under which any of the bonds are issued an option to redeem all or any thereof and at such redemption price(s) and after such notice(s) and on such dates and on such terms and conditions as may be set forth in said resolution(s) and as may be briefly recited in the bonds with respect to which such option of redemption is retained. In the event that the Authority shall make more than one pledge of the same revenues, such pledges shall, unless otherwise provided in the resolution or resolutions authorizing the earlier issued bonds, take precedence in the order of the adoption of the resolutions in which the pledges are made; provided, that each pledge for the benefit of Refunding Bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby.

**Section 14. Sale.** Bonds of the Authority may be sold at such price or prices and at such time or times as the board of directors of the Authority may consider advantageous, at public or private sale. If bonds are to be sold by competitive bid on sealed bids or at

public auction, the bonds may be sold only to the bidder whose bid reflects the lowest effective borrowing cost to the Authority for the bonds being sold; provided, that if no bid acceptable to the Authority is received, it may reject all bids. Notice of each such sale by competitive bids shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the State of Alabama, each of which notices must be published at least one time not less than 10 days before the date fixed for such sale. The board of directors may fix the terms and conditions under which such sale by competitive bids may be held; provided that such terms and conditions shall not conflict with any of the requirements of this act. The Authority may pay out of the proceeds of the sale of its bonds all expenses, including publication and printing charges, fiscal agents' fees, attorneys' fees and other expenses which said board of directors may deem necessary and advantageous in connection with the authorization, advertisement, sale, execution and issuance of such bonds. Neither a public hearing nor consent of the state shall be a prerequisite to the issuance or sale of bonds by the Authority.

**Section 15.** Bonds of Authority Eligible for Investment of Trust Funds. Any trust fund, where the investment thereof is permitted or required by law, may be invested in bonds issued by the Authority. Unless otherwise directed by the court having jurisdiction thereof or the document which is the source of authority, a trustee, executor, administrator, guardian or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in the bonds of the Authority.

**Section 16.** Security for Deposit of Governmental Funds. Any bonds issued by the Authority may be used by the holders thereof as security for deposits of any funds belonging to the state or to any instrumentality, agency or political subdivision of the state in any instance where security for such deposits may be required or permitted by law.

**Section 17.** Disposition of Proceeds of Bonds.

(a) All proceeds derived from the sale of any bonds, except Refunding Bonds, sold by the Authority, remaining after payment of the expenses of issuance thereof, shall be turned over to the State Treasurer, shall be carried by him in a special account to the credit of the Authority, and shall be subject to be drawn on by the Authority solely for the purposes of:

(1) Acquiring land for and constructing, reconstructing and equipping thereon one or more facilities;



(2) Paying all reasonable and necessary expenses incidental thereto, including filing, recording, surveying, legal and engineering fees and expenses;

(3) Paying the interest which will accrue on the said bonds during the period required for the construction and equipment of the said facilities and for a period not exceeding six months after the completion thereof; and

(4) Paying the principal of and interest on all then outstanding notes theretofore issued by the Authority pursuant to the provisions hereof.

The balance of the said proceeds thereafter remaining shall be set aside as additional security for the bonds or shall be used to pay, purchase or redeem bonds as may be provided in the proceedings authorizing their issuance.

(b) All proceeds from the sale of Refunding Bonds issued by the Authority that remain after paying the expenses of their issuance may be used only for the purpose of refunding the principal of and any unpaid and accrued interest on the outstanding bonds of the Authority for the refunding of which the Refunding Bonds are authorized to be issued, together with any premium that may be necessary to be paid in order to redeem or retire such outstanding bonds.

**Section 18.** Investment of Proceeds. Any portion of the principal proceeds derived from the sale of the bonds which the board of directors of the Authority may determine is not then needed for any of the purposes for which the bonds are authorized to be issued shall, on order of the Authority, be invested by the state treasurer in permitted investments which mature at such time or times as the Authority shall direct. Any such investments may, at any time and from time to time on order of the Authority, be sold or otherwise converted by the state treasurer into cash. The income derived from any such investments shall be disbursed on order of the Authority for any purpose for which it may lawfully expend funds.

**Section 19.** Security. The principal of, premium, if any, and interest on the bonds of the Authority shall be secured by any or all of the following, as the Authority may determine:

(1) The rent and revenues from the lease or use of one or more facilities of the Authority;

(2) The proceeds from any sale of any facilities of the Authority;

(3) Any bond proceeds remaining unexpended upon completion of all facilities to be constructed with such bond proceeds and the payment of the cost thereof;

(4) Any insurance proceeds which the Authority may receive by reason of its ownership of any of the facilities; and

(5) Any mortgage upon or security interest in one or more facilities of the Authority, granted in connection with the issuance of such bonds.

The Authority shall have authority to transfer and assign any lease or mortgage of any of its facilities as security for the payment of such principal, premium, if any, and interest. The bonds may be issued under, and secured by, a resolution which may, but need not, provide for an indenture of trust covering one or more facilities of the Authority. Such resolution or such indenture of trust may contain any provision or agreement customarily contained in instruments securing evidences of indebtedness, including, without limiting the generality of the foregoing, provisions respecting the collection and application of any receipts pledged to the payment of bonds, the terms to be incorporated in lease agreements respecting the facilities, the maintenance and insurance thereof, the creation and maintenance of reserve and other special funds from such receipts and the rights and remedies available in the event of default to the holders of the bonds or to the trustee for the holders of the bonds or under any indenture of trust, all as the Authority may deem advisable and as shall not be in conflict with the provisions of this act; provided, however, that in making such agreements or provisions the Authority shall not have the power to obligate itself except with respect to its facilities, and the application of the rents, revenues and other moneys and assets which it is authorized in this act to pledge.

**Section 20.** Enforcement Upon Default. If there be any default by the Authority in the payment of the principal of or interest on the bonds or in any of the agreements on the part of the Authority which may properly be included in any resolution or indenture of trust securing such bonds, any holder of any of the bonds or the trustee for the bondholders under any resolution or indenture of trust, if so authorized therein, may, by an action, mandamus or other proceedings, enforce payment of such items and foreclosure upon any mortgage or security interest granted as security for such bonds and compel performance of all duties of the directors and officers of the Authority and shall be entitled, as a matter of right and regardless of the sufficiency of any such security or the availability of any other remedy, to the appointment of a receiver with all the power of such receiver for the maintenance, insurance and leasing of the facilities and property covered by such resolution or such indenture of trust and the collection and application of the receipts therefrom. Any such resolution or indenture of trust may contain provisions regarding the rights and remedies of any trustee thereunder and the holders

of the bonds and may contain provisions restricting the individual rights of action of the holders of the bonds.

**Section 21.** Bonds and Coupons Deemed Negotiable Instruments. All bonds issued by the Authority shall be construed to be negotiable instruments even though they are payable from a limited source. All coupons applicable to any bonds issued by the Authority shall likewise be construed to be negotiable instruments although payable from a limited source.

**Section 22.** Obligations, Bonds and Notes Not Debt of State. All obligations incurred by the Authority and all bonds and notes issued by it shall be solely and exclusively an obligation of the Authority, payable solely from the sources which may under the provisions of this act be pledged to the payment thereof. No obligation incurred by the Authority and no bond or note issued by it shall create an obligation or debt of the state.

**Section 23.** The Governor of Alabama or the officers of any public corporation, as appropriate, are authorized and directed to execute and deliver immediately before or simultaneously with the issuance of the first series of the bonds of the corporation contemplated by this Act appropriate deeds conveying to the corporation the title to that block of land bounded by the following streets: Pelham, Jackson, Washington, and South Ripley in the Capitol Complex in the City of Montgomery, Alabama. The consideration for said conveyances shall be the corporation's undertaking to re-convey said land with improvements free of charge to the State immediately before the dissolution of the corporation. Since the land would otherwise remain unimproved, said consideration is hereby conclusively determined to be valuable, adequate and fair. Immediately prior to its dissolution the corporation shall also convey to the State the title to that block of land bounded by the following streets: Pelham, Jackson, Washington, and South Ripley in the Capitol Complex in the City of Montgomery, Alabama acquired for construction of buildings thereon whether by purchase, gift, grant, or otherwise provided the terms of the grant are not violated thereby.

**Section 24.** Facilities—Construction All facilities constructed by the Authority shall be constructed according to plans and specifications of architects or engineers, or both, selected by the Authority. The parking deck shall be planned and constructed in such a manner as to accommodate the construction of a mirror image of the Persons Office Building. All such plans and specifications shall be approved by the Authority and by the State Building Commission.

**Section 25.** Leasing to State Agencies.

(a) The Authority is hereby authorized to enter into one or more leases of all or any part or portion of the facilities constructed,

acquired, reconstructed, renovated or improved by the Authority under the provisions of this act, to any agency of the state. Any agency of the state and each of them is hereby authorized to lease any such facilities from the Authority. No such lease shall, however, be for a term longer than the then current fiscal year of the state, but any such lease may contain a grant to any state agency of successive options of renewing said lease on the terms specified therein for any subsequent fiscal year or years of the state; provided, that liability for the payment of rent shall never be for a term longer than one fiscal year.

(b) Rent payments by the state, or any of its agencies shall be due and payable at such time or times as shall be specified in the lease respecting the facilities leased and shall, upon being so paid, entitle the state or such agency to quiet possession of the facilities leased for such fiscal year. Said rent shall be payable, and any such covenant with respect thereto on the part of the state of any of its agencies (as the case may be) shall be performed, solely out of the current revenues of the state or such agency for such fiscal year. The rent payable and the covenants to be performed by the state or any of its agencies under the provisions of said lease shall never be deemed to create a debt of the state within the meaning of the Constitution.

(c) In the event that there shall be any default in the payment of any rent required to be paid or in the performance of any covenant required to be performed by the state or any of its agencies under the provisions of any such lease, while such lease is in effect, the Authority and any pledgee of such lease may, by any appropriate proceedings instituted within the time permitted by law, enforce and compel the payment of such rent and the performance of such covenants. No free use shall be made of any facilities of the Authority so long as the principal of or interest on any bonds, including Refunding Bonds, issued by the Authority remains unpaid.

(d) In the event that any facility owned by the Authority should become vacant or not be used by one of the state agencies, then neither the state nor any agency, board, bureau, commission, public corporation or department of the state shall rent, purchase, acquire, construct or lease any facilities or renew any lease of any facilities, nor shall it use any such facilities other than those owned by the Authority, so long as any facility owned by the Authority shall remain vacant or unused.

**Section 26.** County, Municipal Corporation, Agency of Federal Government, Etc. If at any time any facility constructed or acquired by the Authority is, or is about to be, vacant or unused as a result of there being no lease for such facility in effect for the current fiscal year, then, but only in such event, in order to prevent default on

its bonds, the Authority is hereby authorized to lease such facility to any other agency, department, bureau or commission of the state, any municipal corporation, public corporation, county, or other public body in the state, or any agency of the federal government, and lastly, and in no other order of priority, to a private person, firm or corporation. Any such lease shall not be for the purpose of lending public credit but shall be solely to avoid default on the Authority's bonds and to insure the prompt payment of the principal thereof and interest thereon when due.

**Section 27. Special Funds.** For the purpose of providing funds for the payment of the principal of and interest on the bonds issued by the Authority under the provisions of this Act, there is hereby created and irrevocably pledged to the payment of such obligations a special and continuing trust fund which shall consist of all receipts and income from rents contracted for and received by the Authority under leases of the facility or facilities constructed with the proceeds from the sale of the bonds. There shall be created within said special and continuing trust fund a reserve fund account of said Authority in the State Treasury in which shall be placed as trust fund and held separate and apart from all other moneys of the State or of the Authority, (1) any moneys left after the completion of the facility and the payment of all costs in connection therewith and in connection with the issuance of the bonds, and, (2) all excess rentals and other surplus income from the facility or facilities constructed with the proceeds from the sale of the bonds remaining each fiscal year after payment of all charges and expenses of operating and maintaining such facility or facilities during such fiscal year, including all payments required to be made during such fiscal year with respect to the bonds issued for such facility or facilities. Said reserve fund shall be held by the State Treasurer in trust for the Authority and the holders of its bonds and may be invested at the direction of the Authority. Said reserve fund shall be used to pay, when due and payable, any installment of principal or interest or both on the bonds for which said fund was created which cannot be paid out of current revenues or other moneys of the Authority. Said funds shall not be diverted or use for any other purpose. There shall also be created in said special and continuing trust fund an account thereof in which shall be deposited, segregated and held only the amounts reasonably estimated to be necessary for the maintenance, operation and upkeep of said facilities with all excess moneys at the end of each fiscal year being transferred to the reserve fund.

**Section 28. Exemption from Taxation.** The properties of the Authority and the income therefrom, all lease agreements made by the Authority and all bonds and promissory notes issued by the Authority, the interest thereon, the coupons, if any, applicable thereto, the income therefrom and all lien notices with respect thereto, and

all purchases and use of property by the Authority shall be forever exempt from any and all taxation in the state or in any county, municipality or political subdivision thereof.

**Section 29.** Venue for Actions. Any action to protect or enforce any rights under the provisions of this act shall be brought in the circuit court of Montgomery County, Alabama.

**Section 30.** Fees of Secretary of State. There shall be no fees paid to the secretary of state for any work done in connection with the incorporation or dissolution of the Authority.

**Section 31.** The Authority shall have the power to make such payments to the United States of America as the directors deem necessary to cause the interest on any bonds of the authority to be and remain exempt from federal income taxation. The Authority shall have the power to make agreements respecting the investment of funds of the authority necessary in order that the interest income on bonds of the authority be and remain exempt from federal income taxation.

**Section 32.** Dissolution. When all bonds and securities issued by the Authority and all obligations assumed by it under the provisions of this act shall have been paid in full, the then president of the Authority may thereupon execute and deliver in the name of, and in behalf of, the Authority an appropriate deed or deeds, to which the seal of the Authority shall be affixed and attested by the secretary of the Authority, conveying all facilities, properties and other assets then owned by the Authority to such agency of the state as shall be designated by the Governor. The then directors of the Authority may at such time file with the secretary of state a written statement, subscribed and sworn to by each of them, reciting the payment in full of all bonds theretofore issued by the Authority and the execution and delivery of such deed or deeds, which statement shall be filed by the secretary of state and recorded with the certificate of incorporation of the Authority, and thereupon the Authority shall stand dissolved.

**Section 32.** Exemption of Leases of Facilities from Competitive Bid Laws. All leases of facilities made by the Authority shall be exempt from the provisions and requirements of chapter 16 of Title 41 of the Code.

**Section 33.** Exemption from Sunset Law. The Authority shall not be governed by the provisions of chapter 20 of Title 41 of the Code (originally enacted as Act No. 512 of the 1976 Regular Session of the Legislature of Alabama).

**Section 34.** Severability. In the event any section, sentence, clause or portion of this act should be declared invalid by any court

of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this act, which shall continue effective.

**Section 35.** Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 23, 1990

Time: 11:55 P.M.

Act No. 90-604

H. 822—Rep. Penry

### AN ACT

Relating to the City of Fairhope in Baldwin County, Alabama; altering and rearranging the boundary lines and corporate limits in the City of Fairhope by adding certain parcels of land; providing for an advisory referendum approval by a majority of the qualified electors residing within the territory proposed to be brought within the city boundaries; and providing for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the City of Fairhope in Baldwin County are hereby altered, rearranged and extended so as to include in the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

#### MONTROSE AREA

Beginning at a point where the East right-of-way of U.S. Hwy. 98 intersects the North boundary of the Corporate Limits of the City of Fairhope, Alabama; run thence North on the East margin of said U.S. Highway 98 to the South boundary of Parker Road, then run easterly along Parker Road 410 feet, more or less, thence South 290 feet; thence run East 660 feet; thence North 290 feet to Parker Road; thence continue North 80 feet to the North boundary of Parker Road; thence East along Parker Road 175 feet, more or less, to the Southeast corner of High Ridge Estates Subdivision (MB 7 PG 11, MB 10 PG 21, Baldwin County Probate Records); thence continue East along Parker Road 180.2 feet; thence North 718.9 feet; thence West 181.5 feet to the East boundary of High Ridge Estates; thence North 580 feet more or less, to the Northeast corner of said Subdivision; thence West along the North line of T6S R2E, Baldwin County, Alabama, 1110 feet; thence North 1130 feet; thence West 320.4 feet to the East boundary of U.S. Highway 98; thence northerly along said U.S. 98 to the South boundary of an 80-foot County road

which is an approximate easterly projection of Adams Street; thence easterly along said County road to the Southwest corner of Lot 25 of Montrose Woods Subdivision (MB 10 PG 84); thence East along the South line of said Lot 25 to Rock Creek; thence along the meander of Rock Creek to the North boundary of Section 32, T5S, R2E; thence West to the North-South Half-Section Line of Section 29; thence North along the Half-Section line to a point on the South Corporate Limits of Daphne, Alabama; thence westerly along said Corporate Line to the Eastern margin of Mobile Bay; thence Southerly along Mobile Bay to the North Corporate Line of Fairhope; thence East along said Corporate Line to the point of Beginning.

**LESS AND EXCEPT THEREFROM THE FOLLOWING:**

That certain territory described in Ordinance No. 1990-09 by the City of Daphne, Baldwin County, Alabama, and more particularly described as follows:

**EXHIBIT "A"**

**PARCEL ONE**

**Parcel A:**

From the Northeast corner of Section 30, Township 5 South, Range 2 East, run South, 2,360 feet; thence run West, 25 feet to an iron pipe on the West right-of-way of a county road to the point of beginning; thence continue West 12.5 feet to an iron pipe on the East right-of-way of U. S. Highway 98 Alternate; thence run 103.45 feet Southwestwardly along the right-of-way of U. S. Highway 98 Alternate to a point; thence run East 39 feet to a point on the West right-of-way of the aforementioned county road; thence run North along the said West right-of-way of the county road 100 feet to the point of beginning.

**Parcel B:**

From the Northeast corner of Section 30, Township 5 South, Range 2 East, run South 2360 feet; thence run West 25 feet to an iron pipe on the East right-of-way line of a county road; thence continue West 12.5 feet to an iron pipe on the East right-of-way of U. S. Highway 98 Alternate; thence run 103.45 feet southwestwardly along the right-of-way of U. S. Highway 98 Alternate to the point of beginning; thence continue along the East right-of-way of said highway 181.90 feet to an iron pipe; thence run East 92 feet to an iron pipe on the West right-of-way of the aforementioned county road; thence run North along the said West right-of-way 174 feet to a point; thence run West 39 feet to the point of beginning.



## PARCEL TWO

From the Northwest corner of the Southwest quarter of Section 29, Township 5 South, Range 2 East, run South along the Section line (187.5) feet; thence run West 20 feet to a corner of the West side of the State Aid Road (being the old highway route, now partially abandoned), which corner is on the line dividing lands of Ada Powers and Isaac Austin, for a point of beginning; thence run North 116.5 feet; thence run North 89 degrees West, 98.5 feet to a point on the Eastern margin of U. S. Highway No. 98; thence run South 19 degrees, 36 minutes West, along said right-of-way, 126.2 feet to said Isaac Austin line, thence run East 140 feet to the point of beginning: Lot contains 31/100 acres, more or less and lies in Fractional Section 30, Township 5 South, Range 2 East, Baldwin County, Alabama, and is a portion of the property heretofore owned by Shep Powers, deceased and Ada Powers, his widow.

## PARCEL THREE

Lots 1 and 8 according to the plat showing subdivision of part of the Isaac Austin property, in Section 30, Township 5 South, Range 2 East, Baldwin County, Alabama, recorded in Map Book 4, Page 232, of the records of the Office of the Judge of Probate of Baldwin County, Alabama.

## PARCEL FOUR

Lots Two (2), Three (3), Six (6), and Seven (7), according to a plat showing a subdivision of a part of the Isaac Austin property in Section 30, Township 5 South, Range 2 East, as recorded in Map Book 4, Page 232, of the Records in the Office of the Probate Judge of Baldwin County, Alabama.

## PARCEL FIVE

Lot No. 4, according to a plat showing a subdivision of part of the Isaac Austin property in Section 30, Township 5 South, Range 2 East, as recorded in Map Book 4, Page 232, in the records in the Office of the Judge of Probate Court of Baldwin County, Alabama, said property being located on the East line of U. S. Highway Number 98, and having a front of 61 feet on the East side of said Highway, a depth on the North line of 106 feet; a depth of the South line of 116.5 feet and a rear measurement of 62.1 feet.

## ALSO LESS AND EXCEPT THEREFROM THE FOLLOWING:

That certain territory described in Ordinance No. 1990-10 by the City of Daphne, Baldwin County, Alabama, and more particularly described as follows:

## EXHIBIT "A"

PARCEL 1: Section 29-5-2; Beginning at the Intersection of McIntyre Street and U.S. Highway 98; run thence North 582 feet to the point

of beginning; thence continue North along Highway 98, 165 feet South; thence West 40 feet; North 460 feet South; West 95 feet South; South 670 feet south; East 140 feet South to the point of beginning.

**PARCEL 2:**

From the Northwest corner of Lot 3 of Square 27, Village of Montrose, as recorded in Deed Book "E", Page 388 of the Baldwin County, Alabama, Probate Records, run North 76 degrees 00' East, along the North line of Square 27 and the South right-of-way of McIntyre Street, 251.11 feet to an iron pipe for the Point of Beginning; thence continue North 76 degrees 00' East along said South right-of-way, 233.35 feet to an iron pipe at the intersection of McIntyre Street and the West right-of-way of U. S. Highway 98 (4-Lane); thence run Southwardly along the arc of a curve along the West right-of-way of U.S. Highway 98, a distance of 233.94 feet, having a radius of 8,694.30 feet, to an iron pipe; thence run South 76 degrees 00' West, 217.02 feet to an iron pipe; thence run North 14 degrees 00' West, 233.35 feet to the Point of Beginning, containing 1.21 acres.

**PARCEL 3:**

Commence at the Northeast Corner of Square 10 in the Village of Montrose, Alabama, according to the map thereof recorded in Deed Book "E", at page 388, Probate Records, Baldwin County, Alabama, and run thence N 15 degrees 20' W, 66 feet and N 74 degrees 40' E, 557.9 feet to a point on the western margin of the right-of-way of a roadway known as "U.S. Highway No. 98", properly designated as "Alabama State Highway Dept. Project No. S-635(3) (Revised May 11, 1965); thence run North 09 degrees 31' W, 146.2 feet to an iron pin and concrete block corner marker at the Northeast Corner of property of R. Roy Reynolds and the POINT OF BEGINNING of the lands herein described, said point being located 1653 feet, more or less, North, and 1,500 feet, more or less, West of the 1/2 mile post on the South side of Section 29, T5S, R2E: From said Point of Beginning run South 74 degrees 29' W, 137.7 feet to an iron pin corner marker; thence run N 07 degrees 51' W, 299.3 feet to an iron pipe line marker on the north bank of a deep gully; thence run North 06 degrees 20' W, 126.7 feet to an old iron pipe corner marker at the Northwest corner of the lot herein described and at the Southwest corner of property formerly held by Bailey Dale; thence run N 70 degrees 20' E, 137.2 feet to an iron pipe corner marker on said Western margin of said highway; thence run Southwardly along said right of way 435.75 feet to the Point of Beginning, Lot contains 1.35 acres and lies in the Southwest Quarter of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama, and within the corporate limits of no incorporated city or town.

**PARCEL 4:**

That certain parcel or tract of land described as Square Twenty-Seven (27) in the village of Montrose, and bounded as follows: South by Gable Street, West by Third Street, North by Gully Street, East by Fourth Street, containing Nine (9) acres less Three (3) acres sold to David Rogers, total conveyance Six (6) acres.

**Section 2.** (a) The judge of probate of Baldwin County shall call for an advisory referendum of the qualified electors who reside within the territory above described within 10 days of the filing of the enactment of this legislation with the judge of probate, such election to be held not less than 30 nor more than 45 days from the date of the order of the election by the probate judge of Baldwin County. The election shall be held, conducted and the results thereof canvassed in the manner prescribed by article 3, chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate. The question shall be substantially as follows: "Do you favor the adoption of Section 1 of Act No. \_\_\_\_\_, H.B. \_\_\_\_\_, of the 1990 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Fairhope in Baldwin County? Yes \_\_\_\_\_ No \_\_\_\_\_." The City of Fairhope shall pay all of the costs and expenses incident to the election.

(b) If the canvass of the vote reflects a majority of the qualified electors voting thereon favor the question, the annexation shall become effective immediately. If the canvass of the vote reflects a majority of the qualified electors voting thereon do not favor the annexation or the adoption of H. 822, then the operation of this act shall be that no annexation shall become effective until subsequent action is taken pursuant to general law or legislative act.

**Section 3.** In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the City of Fairhope is on file in the office of the judge of probate in Baldwin County, Alabama, and such map is open to public inspection.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** Except as otherwise herein provided, the provisions of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved April 25, 1990

Time: 6:30 P.M.

Act No. 90-605

H. 977—Rep. Clark (J)

## AN ACT

Relating to Barbour County; authorizing the Barbour County Commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county, and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby imposed upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Barbour County a county privilege, license or excise tax in the following amounts:

(a) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

(b) Two cents (\$0.02) for each cigar of any description made of tobacco or any substitute therefor, with the exception of the cigarette sized or near cigarette sized cigars which may be taxed at the same rate as cigarettes under subsection (a) above.

(c) Two cents (\$0.02) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(d) Three cents (\$0.03) for each sack, plug, package or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subsection (c) of this section.

(e) Three cents (\$0.03) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor. Said privilege, license or excise tax shall be in addition to all other federal, state or local taxes heretofore imposed by law. Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

(f) Fifteen cents (\$0.15) for each package of tobacco paper, both gummed and ungummed.

**Section 2.** (a) Upon adoption of a resolution by the Barbour County Commission, every person, firm, corporation, club, or association that sells, stores or receives for the purpose in Barbour County, any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products.

**Section 3.** It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Barbour County in the business for which the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any part of the amount collected or absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail for not more than sixty days or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 4.** The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The State Department of Revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax.

**Section 5.** The State Department of Revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 6.** All laws, rules and regulations of the Department of Revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama

1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully set out herein.

**Section 7.** The proceeds from the tax hereby authorized less the actual cost of collection not to exceed five per centum (5%) shall be paid by the State Department of Revenue to the Barbour County Commission to be used for the purposes of fire protection and for funding for programs for the elderly in Barbour County. These funds shall be payable on a monthly basis and will be expended solely for the purposes of funding programs for the elderly and paid and volunteer fire departments in order to encourage a strong fire fighters network in Barbour County. The proceeds paid by the State Department of Revenue to the Barbour County Commission shall be distributed as follows:

(a) Ten percent (10%) to the Barbour County Commission to be distributed equally to the Clio Senior Center, the Clayton Senior Center and RSVP (Retired Senior Volunteer Program) in Barbour County; and

(b) Ninety percent (90%) to the volunteer fire departments in Barbour County as determined by the Barbour County Commission in consultation with the Barbour County volunteer fire department association on an equal basis, share and share alike, and the Eufaula city departments.

**Section 8.** (a) None of the provisions of this act shall be applied in such manner as to be in violation with the commerce or other clauses of the federal or state constitution.

(b) This statute shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall become effective the first day of the third month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:32 P.M.

Act No. 90-606

H. 980—Rep. Newman

## AN ACT

To amend, alter, rearrange and extend the boundary lines and corporate limits of the municipality of the City of Sulligent in Lamar County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of the City of Sulligent in Lamar County, Alabama, are hereby amended, altered, rearranged and extended so as to include within the corporate limits of said municipality all of the following territory, to-wit:

Parcel 1

## LAMAR COUNTY

Beginning at the corner of S $\frac{1}{2}$  of NW $\frac{1}{4}$  and SW $\frac{1}{4}$ , all in Section 4; S $\frac{1}{2}$  of NE $\frac{1}{4}$ , SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , and the SE $\frac{1}{4}$ , all in Section 5; N $\frac{1}{2}$  of NE $\frac{1}{4}$ , Section 8; and the NW $\frac{1}{4}$  of Section 9, all in Township 14 South, Range 15 West in Lamar County, Alabama.

Parcel 2

## LAMAR COUNTY

Beginning at the corner of all of the W $\frac{1}{2}$ , Section 27; all of the NW $\frac{1}{4}$ , Section 34; all of the NE $\frac{1}{4}$ , Section 33; all of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$ , Section 28; all of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 28; and all of the S $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Section 28; all in Township 13 South, Range 15 West, Lamar County, Alabama.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This ACT shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:35 P.M.

Act No. 90-607

H. 986—Rep. Higginbotham

## AN ACT

Relating to Lee County; providing for a certain additional monthly expense allowance which shall terminate on December 31, 1990; providing for a certain monthly

salary for such coroner and for a salary for a chief deputy coroner to be effective at the beginning of the next term of office with such salary to be in lieu of all salaries and expense allowances heretofore provided by law for such coroner; authorizing said coroner to appoint a chief deputy coroner and deputy coroners to serve in his absence; providing for payment of office expenses as approved by the county commission and specifically repealing certain conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** On the first day of the first month after the beginning of the next fiscal year following the effective date of this act, the coroner of Lee County shall be entitled to receive an additional monthly expense allowance of \$600.00 to be paid from the county general fund. Provided, however, that such additional allowance shall continue in effect only until December 31, 1990, at which time it shall terminate. Beginning with the next term of office and thereafter, such coroner shall be allowed to receive a monthly salary up to \$1,000.00 and the chief deputy coroner shall be allowed to receive a monthly salary up to \$500.00, as set by the county commission, to be paid from the county general fund, such salaries being paid in lieu of any salary and expense allowances heretofore provided by law for such coroner and chief deputy coroner.

**Section 2.** Such coroner shall be authorized to appoint a chief deputy coroner to serve in his absence. Such coroner shall be further authorized to appoint additional deputy coroners to serve in his absence and shall make provisions for compensating such deputy coroners for their services.

**Section 3.** The Lee County commission shall hereafter pay all necessary expenses as approved by said commission for the operation of the county coroner's office from the county general fund. Such coroner shall furnish to the county commission a proposed budget for operating expenses for each fiscal year at a time to be determined by the county commission.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws in conflict with this act are hereby repealed and those laws or provisions of laws which provide for any salaries or expense allowances for the coroner of Lee County which would be in conflict with the intent of this act are hereby specifically repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:37 P.M.



Act No. 90-608

H. 994—Rep. Breedlove

## AN ACT

Relating to Clarke County; providing further for the compensation of the sheriff.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning with the next term of office, the annual salary of the sheriff of Clarke County shall be \$42,500 per annum. Such salary shall be paid in equal installments out of the county general fund as the salaries of other county employees are paid.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:38 P.M.

Act No. 90-609

H. 900—Rep. Hill

## AN ACT

Relating to Shelby County; to provide further for additional compensation for the members of the board of registrars.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each member of the Shelby County board of registrars shall receive compensation of thirty-five dollars for each day's attendance of the registrar on a working day of the registrar. This compensation shall be paid out of the county general fund and shall be a supplement to any and all other compensation, expenses and allowances heretofore provided for by general law. Said county paid compensation shall be in lieu of any other county paid supplement, compensation or expense allowance.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:40 P.M.

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Act No. 90-610

H. 920—Rep. Logan

### AN ACT

Relating to Marion County; levying an additional county privilege, license or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county, providing for the collection and enforcement and for the distribution of the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby imposed upon every person, firm or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Marion County an additional county privilege, license or excise tax up to the following amounts:

(1) Five cents for each package of cigarettes, made of tobacco or any substitute therefor.

(2) Five cents for each cigar of any description made of tobacco or any substitute therefor, except little cigars, such as Winchester cigars or cigarellos, which are similar to and which are packaged in the same manner as cigarettes, shall be taxed as cigarettes under subdivision 1 of Section 1.

(3) Five cents for each sack, can, package or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco which is prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(4) Five cents for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subdivision (3) of this section.

(5) Five cents for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

(6) Fifteen cents for each package of tobacco paper, both gummed and ungummed.

Said privilege, license or excise tax shall be in addition to all other taxes heretofore imposed by law.

Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

**Section 2.** Upon passage of this act there is levied on every person, firm, corporation, club or association that sells or stores or receives for the purpose of distribution in Marion County any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and the tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products. It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Marion County in the business for which the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than \$100.00 or imprisoned in the county jail for not more than 60 days, or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 3.** It shall be the duty of the county commission of Marion County to enforce the provisions of this act upon its imposing the tax thereunder, and it shall have the right itself, or its members or its agents, to examine the books, reports and accounts of every dealer, storer or distributor engaged in the business for which the tax is hereby levied and to make any and all rules and regulations necessary and proper for the collection of such tax. Provided, however, upon resolution of the Marion County commission, the state department of revenue is hereby authorized and directed to collect all taxes now or hereafter levied by said county under the provisions of this act. The tax hereby levied shall be paid by affixing stamps as

is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The state department of revenue, if requested by resolution of the Marion County commission, to collect all county privilege licenses or taxes specified in section 1, for as long as the department is requested to collect said levies, shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax. However, in the event the required stamps are not available for affixing to tobacco products packages and containers or, by the authority of a duly promulgated regulation eliminating the requirement of affixing stamps and replacing such requirement, a monthly reporting system approved by the department of revenue shall be accepted as evidence of payment of such taxes.

**Section 4.** The state department of revenue, if requested by resolution of the Marion County commission, to collect all county privilege licenses or taxes specified in section 1, for as long as the department is requested to collect said levies, is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 5.** All laws, and rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as set out herein.

**Section 6.** The proceeds from the tax hereby levied, less the actual costs of collection not to exceed ten per centum, shall be paid by the state department of revenue to the Marion County commission to be deposited to the credit of the Marion County Agriculture and Exhibit Center Board.

**Section 7.** (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution.

(b) This act shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective on the first day of the fourth month following the adoption of an amendment to the Constitution of Alabama of 1901, authorizing the Marion County commission to expend public money for establishing an agriculture and exhibit center in Marion County.

Approved April 25, 1990

Time: 6:42 P.M.

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Act No. 90-611

H. 923—Rep. Butler

### AN ACT

Relating to Madison County; to approve a proposed increase in the rate of the special ad valorem tax that is now authorized to be levied, and that is now being levied, without express limit as to time and exclusively for public school purposes in so-called "School District No. 1" in Madison County, pursuant to Amendment No. 149 to the Constitution of Alabama of 1901, from six and one-half (6-1/2) mills to eighteen (18) mills on each dollar's worth of the assessed value of taxable property in said School District No. 1, all in accordance with the provisions of subsection (f) of Section 217 of said Constitution, as amended by Amendment No. 373 thereto; to provide that such proposed increase shall become effective beginning with the levy for the tax year of said Madison County beginning on October 1, 1990 (for which tax year state and county ad valorem taxes will become due and payable on October 1, 1991), but only upon the subsequent approval thereof by a majority of the qualified electors of said School District No. 1 who vote on such proposal at a referendum called for such purpose; to provide for the form of ballot to be used in such election; to provide that the provisions of this act shall be null and void if approval is not given by a majority of the voters at the election; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. The following words and phrases, as used in this Act, shall, in the absence of clear implication herein otherwise, have the following respective meanings:

"County" means Madison County in the State of Alabama.

"Commission" means the Madison County Commission, the present governing body of the County.

"School District No. 1" means that portion of the County lying outside the corporate limits of the City of Huntsville.

"Legislature" means the Legislature of Alabama.

"Amendment No. 149" means that certain amendment to the Constitution of Alabama of 1901 proposed by Act No. 46 enacted at the 1959 First Extraordinary Session of the Legislature.

"Amendment No. 325" means that certain amendment to the Constitution of Alabama of 1901 proposed by Act No. 116 enacted at the 1971 Third Extraordinary Session of the Legislature.

"Amendment No. 373" means that certain amendment to the Constitution of Alabama of 1901 proposed by Act No. 6 enacted at the 1978 Second Extraordinary Session of the Legislature.

"Special District Tax" means that certain special tax authorized to be levied in School District No. 1, under and pursuant to the provisions of Amendment No. 149, without express limit as to time and exclusively for public school purposes within School District No. 1.

**Section 2.** Findings. The Legislature hereby finds and declares as follows:

(a) under and pursuant to the provisions of Amendment No. 149 and Amendment No. 325, the rate at which the Special District Tax is now authorized to be levied is limited to six and one half (6 1/2) mills on each dollar's worth of the assessed value of taxable property in School District No. 1;

(b) the Special District Tax is now being levied at the rate of six and one half (6 1/2) mills on each dollar's worth of the assessed value of taxable property in School District No. 1;

(c) the Commission has heretofore proposed (following a public hearing on such proposal held and conducted by the Commission) that the rate at which the Special District Tax is levied be increased from six and one-half (6-1/2) mills to eighteen (18) mills on each dollar's worth of the assessed value of taxable property in School District No. 1, such proposed increase to become effective beginning with the levy for the tax year of the County beginning on October 1, 1990 (for which tax year state and county ad valorem taxes will become due and payable on October 1, 1991), but only upon the subsequent approval of such proposed increase by both the Legislature and a majority of the qualified electors of School District No. 1 who vote on such proposal at an election called for and held for such purpose at the next primary, runoff or general election held in the county. Notice of the election shall be given as are other county elections under the general applicable laws of this state; and

(d) under and pursuant to the provisions of subsection (f) of Section 217 of the Constitution of Alabama of 1901, as amended by Amendment No. 373, the Commission may act on behalf of School District No. 1 in connection with such proposed increase in the rate at which the Special District Tax is levied above the limit otherwise provided in said Constitution of Alabama.

**Section 3.** Approval of Proposed Tax Rate Increase. The Legislature hereby approves the aforesaid proposed increase in the rate at which the Special District Tax is levied from six and one-half (6-1/2) mills on each dollar's worth of the assessed value of taxable property in School District No. 1 to eighteen (18) mills on each dollar's worth of the assessed value of taxable property in School District No. 1. If such proposed increase in the rate at which the Special District Tax is levied shall hereafter be approved by a majority of the qualified electors of School District No. 1 who vote on such proposal at the next primary, runoff or general election held in the county, then such proposed increase in the rate of the Special District Tax shall become effective beginning with the levy for the tax year of the County beginning on October 1, 1990 (for which tax year state and county ad valorem taxes will become due and payable on October 1, 1991); but otherwise such proposed increase shall not become effective. Nothing in this act shall be construed to permit more than one election to be called and held on the proposal heretofore made by the commission [and referred to in subsection (c) of Section 2 of this act] and hereby approved by the Legislature.

**Section 4.** Form of Ballot. The ballot to be used in the aforesaid election shall be in substantially the following form, with such insertions, variations and omissions as may be necessary to conform to the requirements of applicable law:

"Shall the rate of that certain special ad valorem tax that is levied, without express limit as to time and exclusively for public school purposes in that portion of Madison County, Alabama, lying outside the corporate limits of the City of Huntsville (which portion of said Madison County is sometimes known as School District No. 1 of said Madison County), under and pursuant to Amendment No. 149 to the Constitution of Alabama of 1901, as amended, be increased from six and one-half (6-1/2) mills on each dollar's worth of the assessed value of taxable property in said School District No. 1 to eighteen (18) mills on each dollar's worth of the assessed value of taxable property in said School District No. 1—such increase to become effective beginning with the levy for the tax year of said Madison County beginning on October 1, 1990 (for which tax year state and county ad valorem taxes will become due and payable on October 1, 1991)?

"( ) FOR proposed increase in rate of special school district tax

"( ) AGAINST proposed increase in rate of special school district tax"

**Section 5.** Repealer. All laws and parts of laws that are in conflict with any of the provisions of this Act shall be and hereby

are, to the extent of such conflict, repealed. Nothing in this act shall be construed to authorize the issuance, by the board of education of the County, of any bonds, warrants or other securities payable out of (or secured by a pledge of) all or any portion of the proceeds of the Special District Tax, at private (rather than public) sale or otherwise in a manner not authorized by the general laws of the state applicable to any such sale of such bonds, warrants or other securities.

**Section 6.** Severability. The provisions of this Act are severable. If any portion of this Act should be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining portions of this Act, which shall continue effective.

**Section 7.** Effective Date. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law. Nothing in this act shall be construed to permit the proposed increase heretofore proposed by the Commission and hereby approved by the Legislature to become effective except upon the approval by a majority of the qualified electors of School District No. 1 who vote on such proposal at the election referred to in Section 3 of this act, all as provided in said Section 3.

Approved April 25, 1990

Time: 6:44 P.M.

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Act No. 90-612

H. 961—Rep. Black

### AN ACT

Relating to Sumter County; providing further for the distribution of certain fees received by the county from the disposal of hazardous waste.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Sumter County.

**Section 2.** Any and all fees received by the county from the disposal of hazardous waste in the county received pursuant to Section 22-30B-2, Code of Alabama 1975, and Act No. 90- , H. 310, 1990 Regular Session, shall be distributed as follows:

(a) Fifty-five thousand dollars (\$55,000) as a one-time appropriation, to be paid in five equal monthly installments to be used by the County Commission to replace the bridge in the Mt. Tabor Community; thereafter



(b) Forty percent (40%) shall be placed in an irrevocable trust fund named "The Sumter Trust for the Future." After the trust and interest accrued has reached a balance of seven million dollars, the trustees of the trust may distribute sums to the Sumter County Board of Education and the County Commission as long as the balance in the trust does not decrease below seven million dollars. Provided, however, if the monies from hazardous waste disposal fees to various agencies in Sumter County decrease to less than one-half the sums received in the year preceding April 1, 1990, the trustees may distribute, in their discretion, to any Sumter County Agency receiving monies from the hazardous waste disposal fees generated in Sumter County regardless of the sum in the trust fund. There shall be three trustees to administer the trust fund created by this act. Said trustees shall be appointed by the legislative delegation representing Sumter County to staggered three-year terms. The initial trustees shall be appointed as follows: One for a one-year term; one for a two-year term; and one for a three-year term. Thereafter each shall be appointed for three years;

(c) Five and one-half percent (5 1/2%) to the law enforcement task force to help fund efforts to prevent drug abuse;

(d) Three and one-half percent (3 1/2%) to Livingston University to be used for classes involving the disposal and treatment of hazardous waste;

(e) One percent (1%) to the Tombigbee Hospice;

(f) Five percent (5%) to the Sumter County Emergency Medical Service, provided there is a countywide EMS agency;

(g) Twenty percent (20%) to the County Board of Education;

(h) Fifteen percent (15%) to the Sumter County Commission;

(i) Two percent (2%) to the Sumter County Commission for distribution to Child Day Care Programs;

(j) Four percent (4%) to the Sumter County Commission for the Fire Fighters Association for distribution to volunteer fire department districts;

(k) One percent (1%) to be divided equally between the municipalities of Emelle and Geiger because of their proximity to the hazardous waste facility;

(l) Two percent (2%) to the Sumter County Commission for health purposes in Sumter County other than hospitals and the health department; and

(m) One percent (1%) to the Federation of Southern Cooperative/Land Assistance Fund for development of youth.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:45 P.M.

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Act No. 90-613

H. 86—Rep. Marietta-Lyons

### AN ACT

Relating to Mobile County to amend Section 1 of Act No. 80-621, H. 992 of the 1980 Regular Session (Acts 1980, p. 1062) relating to authorizing, providing and regulating the furnishing of office space and assistants to the legislative delegation in Mobile County, so as to provide further for the compensation of the Mobile County legislative delegations' employees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 80-621, H. 992 of the 1980 Regular Session (Acts 1980, p. 1062) is hereby amended to read as follows:

“Section 1. The governing body of Mobile County may, jointly with the governing bodies of any incorporated municipalities within the county, provide office accommodations for the members of the state legislative delegation from the county and also provide assistants to such legislative delegation. The largest city in Mobile County shall provide the office space and the telephone for the office, or at least the price thereof with the advice and consent of the delegation as to its location. The other incorporated municipalities in the county shall each pay eight cents per capita to cover other expenses of maintaining and operating such offices. The county shall provide for two assistants for the legislative delegation. Such assistants, in the discretion of the county governing body, need not be members of any county, city, or state merit or retirement system, if such system exists. The amount of the compensation for each of such assistants shall be fixed by the members of the legislative delegation, subject to approval by the county governing body. The county governing body shall provide temporary help for the Mobile County Local Delegation during those times when the work load is excessive for the two assistants. Such temporary help shall be provided for through a specific request by the chairman of the delegation. The temporary help shall work during a time period not to exceed ten working days, and payment for the help shall come from Mobile County.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:47 P.M.

Act No. 90-614

H. 87—Rep. Marietta-Lyons

### AN ACT

Relating to the City of Mobile in Mobile County; to amend Section 2 of Act No. 749, S. 570, Regular Session 1967 (Acts 1967, p. 1603), relating to supplemental retirement benefits to certain employees, so as to provide further for the payment of such supplemental benefits and the restriction of application of Act No. 773, S. 621, Regular Session 1951 (Acts 1951, p. 1342), as amended, which established a pension and relief system for such employees; and to provide for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 749, S. 570, Regular Session 1967 (Acts 1967, p. 1603), is hereby amended to read as follows:

“Section 2. All employees of any such city (except members of the police or fire departments thereof) who have heretofore been covered by the benefits established by the provisions of Act No. 773, Regular Session 1951 (Acts 1951, p. 1342), as amended, and who by action of the city commission or like governing body of such city become eligible to participate in the state employees pension plan, shall be entitled to receive the following benefits from the city, to be calculated as of the effective date of becoming eligible to participate in the state employees pension plan:

“(a) Any employee eligible for retirement shall, upon retiring or otherwise leaving the employ of such city and becoming eligible to receive retirement benefits under said Act No. 773, receive monthly an amount equal to the monthly benefits provided by said Act No. 773.

“(b) Any employee not eligible to receive benefits under said Act No. 773, shall, upon retiring or otherwise leaving the employ of said city, and upon reaching his 60th birthday, receive monthly an amount equal to 2 1/2% of his monthly wages, multiplied by the number of years (including any fractional part of a year) of employment with such city, prior to the date when he became eligible to participate in the state employees pension plan.

“(c) Any employee may elect to not share in the benefits established by said Act No. 773 and in the benefits guaranteed by

subsections (a) and (b) hereof at any time prior to his becoming eligible to receive retirement benefits, and upon filing with the governing body of the city written notice of such election shall be reimbursed all sums theretofore contributed to the pension plan established by said Act No. 773, as amended, and shall not thereafter receive any pension benefits from such city.

“(d) The payments by such city pursuant to said Act No. 773 or pursuant to the terms of this act, when added to the retirement benefits from any other source to which the city shall have contributed, excluding social security benefits and any portion of such retirement benefits resulting from United States military service, shall not serve to make the aggregate retirement benefit higher than the benefits to which such employee would have been entitled had said Act No. 773 continued in force and effect.

“It is further provided that when the monthly compensation received by any such employee as salary at the time of his retirement is utilized in computing the payment made by the city pursuant to said Act No. 773, or pursuant to the terms of this act, there shall be included in such monthly salary one-twelfth of the amount of the employee’s annual incentive pay at the time of retirement.”

**Section 2.** This act shall become effective retroactive to \_\_\_\_.

Approved April 25, 1990

Time: 6:48 P.M.

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Act No. 90-615

H. 896—Reps. Hall and Freeman

### AN ACT

Relating to Madison County; providing for an advisory referendum on the question of whether the county superintendent of education, commencing at the next term of office, shall be appointed by the county board of education or elected by the qualified voters of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judge of probate of Madison County shall order and provide for an advisory referendum amongst the voters in School District No. 1 of Madison County at the next regularly scheduled county-wide election. On the ballot to be used at such election, two questions shall be stated substantially as follows:

1. Commencing with the next term of office, are you in favor of the county superintendent of education being appointed by the county board of education? Yes ( ) No ( )

2. Commencing with the next term of office, are you in favor of the county superintendent of education being elected by the qualified voters of the county? Yes ( ) No ( )

The results of this advisory referendum election shall be certified by the judge of probate to the secretary of state who shall make a permanent record thereof.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:50 P.M.

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Act No. 90-616

H. 983—Rep. Crow

### AN ACT

Relating to the City of Oxford in Calhoun County; amending further Act No. 963, S. 1177, 1975 Regular Session (Acts 1975, p. 1996), which provides for a civil service system for the city, so as to provide further for compensation of the board members and the chairman of the board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 6 of Act No. 963, S. 1177, 1975 Regular Session (Acts 1975, p. 1996), is hereby amended to read as follows:

“Section 6. Each member of the board and the chairman of the board shall be paid \$100.00 per month by the City of Oxford. The board shall have the power to appoint clerical assistance and engage legal counsel of its own choice.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:52 P.M.

Act No. 90-617

H. 985—Rep. Layson

## AN ACT

Relating to Tuscaloosa County; to amend section 1 of Act No. 80-536, H. 73, 1980 Regular Session (Acts 1980, p. 835), as amended, which provides overtime compensation for certain law enforcement officers, so as to provide further for the officers of the City of Northport.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 80-536, H. 75, 1980 Regular Session (Acts 1980, p. 835), as amended, is hereby further amended to read as follows:

“Section 1. Any law enforcement officer in the service of Tuscaloosa County or any city located therein or who is employed under a L.E.A.A. or L.E.P.A. grant, who is assigned to duty for more than eight hours during any one day or for more than forty hours during any calendar week, shall be paid time and one-half for such excess hours worked; or he shall be given time and one-half compensatory leave. In all such cases, it shall be at the sole option of the law enforcement officer whether he shall receive overtime pay or compensatory leave.

“Provided, however, that upon adoption by resolution of the city council of the City of Northport, Alabama, the city may implement the scheduling of four 10-hour shifts per week rather than five 8-hour shifts per week for certain positions in its police department, and any such law enforcement officer so affected, who is assigned to duty for more than ten hours during any one day or for more than forty hours during any calendar week, shall be paid time and one-half for such excess hours worked; or he shall be given time and one-half compensation leave. In all such cases, it shall be at the sole option of the law enforcement officer whether he shall receive overtime pay or compensatory leave. This paragraph of Section 1 shall apply only to those Northport law enforcement officers who are assigned to four 10-hour shifts per week. All other Northport law enforcement officers assigned to five 8-hour shifts shall remain under the first paragraph of Section 1. Holiday pay will be based on the number of assigned hours per day.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:53 P.M.

Act No. 90-618

H. 787—Rep. Thomas

## AN ACT

Relating to Wilcox County; to provide for a special recording fee on documents filed in the office of the Judge of Probate; to provide that such special recording fee be used for the purpose of acquiring and maintaining electronic data processing equipment for the office of the Judge of Probate.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** A special recording fee of \$1.00 shall be collected by the Judge of Probate of Wilcox County, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said Judge of Probate and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county, and no such instrument shall be received for record in the office of said Judge of Probate unless the said special recording fee of \$1.00 is paid thereon. The said special recording fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county.

**Section 2.** The special recording fee of \$1.00 as provided for by Section 1 of this act shall, by the twentieth (20th) of the month following its collection, be deposited by the Probate Judge into the treasury of Wilcox County and kept in a special fund to the credit of the Judge of Probate. Such special fund shall be expended by the Judge of Probate, at his discretion, for the purchase and maintenance of electronic data processing equipment which shall be used in the general operations of his office.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon both: (1) its passage and approval by the Governor, or upon its otherwise becoming a law; and (2) only if an amendment to the State constitution proposed by Act. No. 89-798, S.B. 638 of the 1989 Regular Session of the legislature is first ratified and confirmed.

Approved April 25, 1990

Time: 6:55 P.M.

Act No. 90-619

H. 683—Rep. Venable

## AN ACT

Providing for a board of education for the city of Tallassee, Alabama to be elected by the qualified electors of said city; providing that the members of such board shall be elected from defined school districts; providing for the terms of office, qualifications and compensation of such members; prescribing procedures for electing such members and for filling vacancies on such board; providing for board representation for persons not residing within a specific school district; providing certain immunity for such board members; providing for financial audits of the records of such board and providing that this act shall become effective upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected school board for the city of Tallassee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby established a school board for the city of Tallassee, Alabama, which board shall be called "The Tallassee Board of Education". The members of such board shall be elected by vote of the qualified electors of the city of Tallassee, Alabama, as hereinafter provided. Said board shall be composed of seven members, with one member of such board being elected from each of seven school districts as defined in Section 2 of this act.

**Section 2.** The school districts from which such board members are to be elected shall be geographically identical to the districts from which the council members of the city of Tallassee are elected. In the event the boundaries of a city council district should be changed for any reason, the boundaries of the corresponding school board district within the city of Tallassee shall automatically change accordingly without the necessity of further action by the legislation.

**Section 3.** Candidates for each place on such board of education shall be at least 21 years of age, residents of the school board district which they seek to represent on such board for at least 90 consecutive days prior to the deadline date for qualifying as a candidate and shall not have a record of conviction for any crime involving moral turpitude. At the time of qualifying, each candidate for each place on such board shall pay such qualifying fee as shall be prescribed by the city council of Tallassee, Alabama, not later than six months prior to the qualifying deadline as provided by law. Provided, however, that the qualification fee for the first elections to be held for the board created by this act shall be \$25.00 for each candidate.

**Section 4.** Such elected school board members shall serve for four year terms with the elections and terms thereof coinciding with those of the members of the city council of Tallassee, Alabama;



provided, however, that the initial elections for such board members shall be held no later than 90 days next following the effective date of this act. Such initially elected board members shall serve from the date on which they are sworn into office until the swearing in of their successors next following the next regularly scheduled city council and school board elections. Terms of office for the initially elected board members shall terminate on the first Monday of October, 1992, at noon or at such time as their duly elected successors are sworn in subsequent to the first Monday of October, 1992.

**Section 5.** In the event a vacancy occurs in the office of members of the city board of education, the vacancy shall be filled by appointment by a majority of the remaining members of the city board of education, and the appointee shall hold for the unexpired term. In the event the vacancy is not filled by the remaining members of the city board within 30 days, the state superintendent of education shall fill such vacancy by appointment. The city superintendent of education shall notify the state superintendent of education when a vacancy in the office of a member of the city board of education has not been filled within 30 days.

**Section 5.** In the event no candidate receives a majority of all of the votes cast for any one or more positions on such school board, the city council shall order a run-off election to be held separately or in conjunction with any scheduled primary, special or general election, at which election the two candidates receiving the most votes for the office in the initial election shall be the only candidates. The candidate receiving the most votes in such run-off election shall be declared as elected. In the event of a tie vote between such run-off candidates, the then serving city council shall decide the election by majority vote at a special meeting called for such purpose by the council's presiding officer.

**Section 6.** All members of the board created by this act shall represent the interests of any student of the city school system who is not otherwise represented by a certain district school board member as provided for in this act.

**Section 7.** The compensation for the members of such school board shall be \$100.00 per month to be paid from city school system funds; provided, however, that such board may change this amount by majority vote thereof, which changes must be made not later than six months prior to the deadline for qualification of candidates for seats on such board of education. Thereafter, such compensation as set by such board, from time to time, shall be in effect for successor boards.

**Section 8.** Such board of education shall have the financial records of the Tallassee School System audited at least annually by

an independent auditing firm with the results of such audit being a matter of public record.

**Section 9.** The members of such board shall have such powers, authority, duties and responsibilities as are otherwise provided by law for members of boards of education as set forth in Title 16, Chapter 11, Code of Alabama 1975.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** This act shall become effective immediately upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected board of education for the city of Tallassee, Alabama. If such constitutional amendment is defeated, then, the provisions of this act shall be null and void.

Approved April 25, 1990

Time: 6:57 P.M.

Act No. 90-620

H. 776—Reps. Drake and Bowling

## AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Fairview, in Cullman County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Fairview in Cullman County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Commencing at the Southwest Corner of the Northeast Quarter of the Northeast Quarter, Section 13, Township 9, South, Range 2 West; thence North 89 degrees 30 minutes East a distance of 395.5 feet to the true point of beginning; thence continue along same line a distance of 726 feet to a point; thence North 00 degrees 30 minutes West a distance of 300 feet to a point; thence South 89 degrees 30 minutes East a distance of 726 feet to a point; thence South 00 degrees 30 minutes East a distance of 300 feet to the true point of beginning.

Said land lying and being in the Northeast Quarter of the Northeast Quarter of Section 13, Township 9, South, Range 2 West, Cullman County, Alabama, and contains five (5) acres, more or less.

Commencing at a point on the West line of the Southeast Quarter of the Northeast Quarter of Section 13, Township 9, South, Range 2 West, 30 feet South of the Northwest Corner of said forty for a point of beginning; thence East 210 feet to a point; thence South 130 feet to a point; thence in a Southwesterly direction and parallel with the Vickery Lot a distance of 179 feet to a point on the East right-of-way of the Eva-Fairview Public Road; thence in a Northwest-erly direction along the East right-of-way of said Public Road a distance of 220 feet, more or less, to a marked point; thence East 75 feet and the point of beginning, containing one (1) acre, more or less, situated lying and being in the County of Cullman, State of Alabama.

Beginning at the Southeast Corner of the Northeast Quarter of the Northeast Quarter, Section 13, Township 9, South, Range 2, West, thence N 00 degrees 30 minutes West a distance of 1320 feet to a point; thence South 89 degrees 30 minutes West a distance of 1610 feet to a point; thence South 18 degrees 03 minutes East a distance 640 feet to a point; thence South 69 degrees 47 minutes West a distance of 210 feet to a point on the East right-of-way line of county road #55; thence South 3 degrees 13 minutes East along said right-of-way a distance of 51.3 feet to a point; thence North 69 degrees 47 minutes East a distance of 283.69 feet to a point; thence North 89 degrees 30 minutes East a distance of 917.15 feet to a point; thence South 00 degrees 30 minutes East a distance of 400 feet to a point; thence South 89 degrees 30 minutes West a distance of 507 feet to a point; thence South 00 degrees 30 minutes East a distance of 300 feet to a point; thence North 89 degrees 30 minutes East a distance of 925 feet to the point of beginning. Said land lying and being in the Northeast Quarter and the Northwest Quarter of the Northeast Quarter, Section 13, Township 9, South, Range 2, West, Cullman County, Alabama, and containing 31 acres, more or less.

A parcel of land situated in the Northeast Quarter of the Northeast Quarter and the Northwest Quarter of the Northeast Quarter of Section 13, Township 9, South, Range 2, West, Cullman County, Alabama, being more particularly described as follows:

Commence at the Southeast Corner of the Northeast Quarter of the Northeast Quarter, Section 13, Township 9, South, Range 2, West; run thence in a Westerly direction along the South line of said quarter quarter section for a distance of 421.09'; thence turn an angle to the right of 90 degrees and run in a Northerly direction for a distance of 300 feet to the point of beginning thus obtained; thence

continue along last described course for a distance of 400 feet; thence turn an angle to the left of 90 degrees and run in a Westerly direction for a distance of 917.15 feet; thence turn an angle to the left of 19 degrees 43' 00" and run in a Southwesterly direction for a distance of 283.69 feet to a point on the Northeasterly right-of-way line of Cullman County Road No. 55; thence turn an angle to the left of 87 degrees and run in a Southeasterly direction along the Northeasterly right-of-way line of said County Road for a distance of 213 feet to the point of beginning of a curve to the left, said curve having a central angle of 2 degrees 56' 24" and a radius of 2,057.44 feet; thence run along the arc of said curve to the left in a Southeasterly direction for a distance of 105.57 feet; thence turn an angle tangent to said last described curve to the left and run in an Easterly direction of 1090 feet to the point of beginning.

Commencing at the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 13, Township 9, South, Range 2 West; thence South 89 degrees 30' West a distance of 290 feet to the true point of beginning; thence continue along same line a distance of 223 feet to a point on the East right-of-way line of the Fairview Eva Road; thence South 18 degrees 03' East along said right-of-way a distance of 291 feet to a point; thence North 69 degrees 47' East a distance of 210 feet to a point; thence North 18 degrees 03' West a distance of 220 feet to the true point of beginning. Said land lying and being in the Northwest Quarter of the Northeast Quarter of Section 13, Township 9, South, Range 2 West, Cullman County, Alabama, and contains 1.3 acres, more or less.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:01 P.M.

Act No. 90-621

H. 777—Reps. Drake and Bowling

## AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of South Vinemont in Cullman County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of South Vinemont in Cullman County are hereby altered, rearranged and extended so as to include within the corporate

limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

All that part of NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 21, Township 9 South, Range 3 West, lying west of the Louisville and Nashville Railroad, less and except the following:

(a) Beginning 225 feet East of the Southwest corner of the Northeast Quarter of the Southwest Quarter of Section 21, Township 9 South, Range 3 West, for a starting point, then go 175 feet East along the South line of said forty; then go at right angles North 150 feet to a point; then go at right angles West 175 feet to another point; and, then go at right angles South 150 feet to the point of beginning, being a tract or lot of land 175 feet East and West 150 feet North and South and being in said Northeast Quarter of Southwest Quarter of Section 21, Township 9 South, Range 3 West.

(b) Beginning at the Southwest corner of the Northeast Quarter of the Southwest Quarter of Section 21, Township 9 South, Range 3 West; thence running 180 feet North along the Westerly line of said forty; thence in a Northeasterly direction 75 feet; thence East from said point to a public road; thence in a Southerly direction along the Westerly line of said lot to a point on the South line of said forty which is 190 feet East of the Southwest corner of said forty, thence West along the forty line 190 feet to the point of beginning.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:03 P.M.

Act No. 90-622

H. 267—Rep. Moon

### AN ACT

To amend Section 16-23-4, Code of Alabama 1975, relating to application fees for teacher certification, so as to increase the application fee from \$10.00 to \$20.00.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-23-4, Code of Alabama 1975, is hereby amended to read as follows:

Section 16-23-4. Fee of applicant for certificate.

(a) An application fee of \$20.00 must be paid by an applicant.

(b) The fees paid by the applicants shall be deposited to a special account for the State Department of Education into the state treasury

at least monthly and used for the operation of the teacher education and certification program.

**Section 2.** The State Board of Education shall be authorized to establish reasonable charges for evaluation of transcripts.

**Section 3.** All laws or parts of the law which conflict with this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remain.

**Section 5.** This act shall become effective immediately upon its passage and approval of the Governor as upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:04 P.M.

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Act No. 90-623

H. 813—Rep. Lindsey

### AN ACT

Relating to Cleburne County; to provide for the merging of the budgetary operations of the Revenue Commissioner's office; to provide that the said office shall be financed on a pro rata share basis from proceeds of state, county and municipal ad valorem taxes collected in the county; to establish a separate county fund to receive the tax collections, to be named the revenue commissioner's operational fund; and to provide for supplemental effect and that the provisions of this act shall be retroactively effective to October 1, 1989.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Revenue Commissioner of Cleburne County is hereby authorized to take the necessary action to merge the budgetary operations and functions of his office. Hereafter, said office shall be financed on a pro rata share basis from the proceeds of state, county and municipal ad valorem taxes collected in the county provided, however, state pro rata cost participation shall be limited to: (1) officials' salaries in accordance with §40-6A-2 of the Code of Alabama 1975, and (2) the cost of appraisal and mapping functions. The funds collected by the revenue commissioner's office shall be deposited into a separate county fund hereby created which shall be named the revenue commissioner's operational fund. This act is not intended to affect any other county office of Cleburne County.

**Section 2.** The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating the Revenue

Commissioner's office in Cleburne County; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

**Section 3.** This act shall be retroactively effective to October 1, 1989.

Approved April 25, 1990

Time: 7:05 P.M.

Act No. 90-624

H. 570—Reps. Payne, Beasley,  
Johnson (RG), Poole  
and Hamilton

### AN ACT

To authorize and provide the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) The governing body of any city, town, fire district, water and fire authority district or the Alabama League of Municipalities may, by resolution legally adopted to conform to rules prescribed by the state employees' insurance board, elect to have its officers, employees and retired employees become eligible to be covered under the state employees' health insurance plan as a separate group without any liability to the state or the state employees' health insurance plan. The terms "officers" and "employees" as used in this act shall include those persons appointed or employed by the individual officers and performing their duties in public office.

(b) Acceptance of the employees identified in subsection (a) shall be optional with the state employees' insurance board; provided, however, there shall be at least 5,000 such employees becoming members of the state employees' insurance plan pursuant to this act before the board shall allow participation of such employees.

(c) Employees, officers and retirees who are covered by the state employees' health insurance plan pursuant to this act shall be entitled to the coverage and benefits under the plan as though they were state employees.

(d) The cost of the insurance coverage for the employees, officers and retirees pursuant to this act may be paid by the employer;

however, the employer shall determine how the cost of dependent coverage shall be paid.

(e) The chief fiscal officer of each employer shall pay to the state employees' health insurance board the amount of premiums required for employee and dependent coverage under this act. The employer shall furnish the necessary information to the state employees' insurance board.

(f) The agreement of any employer to have its employees, officers and retirees to be covered under the state employees' health insurance plan shall be irrevocable for two years and thereafter may be revoked only by complying with the following provisions:

The employer, by resolution of the governing body, shall signify its intention and desire to withdraw from such plan in writing and by delivering a copy of such resolution to the state employees' health insurance board.

**Section 2.** The state employees' insurance board shall promulgate such rules and regulations as may be necessary for the effective administration of the provisions of this act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:06 P.M.

Act No. 90-625

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H. 90—Reps. Holley, Fuller, Turner, Richardson, Grouby, Newman, Layson, Hooper, Goodwin, Johnson (RG), Williams, Starkey, Turnham, Warren, Curry, White (G), Mikell, Mathis, Carothers, Britnell, Moon, Zoghby, Ford, Carter, Flowers, Buskey (JE), Parker, Blake, Willis, Blakeney,



Frazier, Black, Box, Bowling,  
Marks, Wright, Walker,  
Melton, Dillard and Harvey

## AN ACT

To provide for a cost of living increase to certain retirees receiving a monthly benefit from the Teachers' Retirement System of Alabama and in certain cases the Employees' Retirement System of Alabama, to provide for partial funding of such benefits, and to provide that no person shall be entitled to receive the benefits granted herein if receipt of such will jeopardize such persons eligibility to receive Medicaid benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby provided, commencing October 1, 1990 to each person whose effective date of retirement for purposes of receiving benefits from the Teachers' Retirement System is prior to October 1, 1989, a cost of living increase of \$1.00 per month for each year of creditable service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree.

**Section 2.** (a) There is hereby provided, commencing October 1, 1990 to certain persons identified in subsection (b) herein, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to October 1, 1989, a cost of living increase of \$1.00 per month for each year of service attained by said retiree plus \$3.00 per month for each year of retirement attained by said retiree.

(b) The benefits provided in this section are limited to those retirees whose participation in the Employees' Retirement System was based on §36-27-6, Code of Alabama, and whose employer at the time of retirement was a local board of education or a state supported institution of higher education. The benefits granted herein shall not apply to any other participants in the Employees' Retirement System.

**Section 3.** (a) There is hereby appropriated from the Alabama Special Educational Trust Fund to the Teachers' Retirement System of Alabama \$13,878,629.00 for the fiscal year beginning October 1, 1990. In addition to the appropriation provided herein any available amounts from the existing funds of the Teachers' Retirement System which may be expended without increasing the unfunded accrued liability of the Teachers' Retirement System, as determined by the system's actuary, or any other appropriation to the Teachers' Retirement System for the fiscal year beginning October 1, 1990, may be allocated and expended by the secretary-treasurer to partially fund the benefits provided herein for the fiscal year beginning October 1, 1990. In the event that funding from the Teachers' Retirement System is utilized to fund a portion of the benefits provided herein for the

fiscal year beginning October 1, 1990 and in the further event that unencumbered funds shall be available in the special educational trust fund at the end of such fiscal year such amount as shall have been expended from the funds of the Teachers' Retirement System not included in any appropriations for special pensions to the Teachers' Retirement System shall be repaid to the Teachers Retirement System from such unencumbered funds as soon as possible after the close of said fiscal year.

(b) There is hereby appropriated from the Alabama Special Educational Trust Fund to the Employees' Retirement System \$130,753.00 for the fiscal year beginning October 1, 1990, to partially defray the costs of this section as they relate to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System.

(c) Subsequent appropriations to the Teachers' and Employees' Retirement Systems shall be reduced to only the amount necessary to fund the benefits increases provided in sections 1 and 2 of this bill, provided that the benefits provided herein shall continue in subsequent years only so long as the Legislature shall continue to fund the cost of said increases.

**Section 4.** Any person who receives benefits under the Medicaid program and whose eligibility for such benefits would be impaired by the cost of living increase provided herein shall not be entitled to receive said increase. Any person who shall subsequently apply for benefits under the Medicaid program and such person's eligibility to receive benefits is impaired by the cost of living increase provided herein, shall not be entitled to receive said increase subsequent to the date that the member files application for benefits under the Medicaid program.

**Section 5.** The provisions of this bill are supplemental. It shall be construed in *pari materia* with other laws regulating and providing for the payment of retirement benefits to the retired members of the Teachers' Retirement System and certain members of the Employees' Retirement System of Alabama; however, those laws or parts of laws which are in direct conflict or inconsistent therewith are hereby repealed to the extent of such conflict.

**Section 6.** This act shall become effective October 1, 1990 upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:07 P.M.

Act No. 90-626

H. 118—Rep. White (L)

## AN ACT

Relating to Tallapoosa County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as county revenue commissioner; providing for the compensation of such official; abolishing the offices of tax assessor and tax collector; repealing conflicting laws; and providing for a referendum thereon.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Effective at the beginning of the next term of office, or upon occurrence of a vacancy in either the office of tax assessor or tax collector, there shall be a county revenue commissioner in Tallapoosa County. A commissioner shall be elected at the general election in 1996 and at the general election every six years thereafter, who shall serve for a term of six years beginning on the first day of October next after his election, and until his successor is elected and has qualified.

**Section 2.** The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for taxation, the collection of taxes, the keeping of records and the making of reports concerning assessment for and the collection of taxes. Provided, however, all duties and responsibilities relating to the issuance of motor vehicle titles and license plates, shall, effective January 1, 1991, be performed by the judge of probate.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks, and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

**Section 4.** Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by Section 40-5-3 of the 1975 Code of Alabama for Tax Collectors in Alabama, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned as other official bonds are conditioned and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on warrant of the county commission, and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner, and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

**Section 6.** The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor or the tax collector of the county are now or hereafter may be by law authorized and directed to charge or collect for the performance of any duty hereby imposed on the county revenue commissioner. As compensation for the performance of the duties of his office, the county revenue commissioner shall receive an annual salary as provided by law, payable in equal monthly installments out of the general fund of the county.

**Section 7.** The offices of the tax assessor and tax collector of Tallapoosa County are hereby abolished effective the first day of October 1997, or upon the occurrence of a vacancy in the office of tax assessor or tax collector. In the event that the office of tax assessor or tax collector becomes vacant before October 1, 1996, the office of county revenue commissioner shall immediately come into being, and the remaining officer, tax assessor or tax collector, as the case may be, shall immediately assume the duties of the office of county revenue commissioner and shall perform such duties until a county revenue commissioner has been elected as provided herein. For the performance of such duties, he shall be entitled to the salary herein above prescribed for the county revenue commissioner.

**Section 8.** The provisions of this act shall become operative in Tallapoosa County, only if they are first approved by a majority of the qualified electors of said county who vote thereon in a referendum election to be held at the next general, special or constitutional election. Said election may be held pursuant to the provisions of this act, at which time the question shall be submitted substantially as follows:

"Shall Act No. \_\_\_\_\_ of the 1990 Regular Session of the Legislature which provides for the abolition of the offices of tax assessor and tax collector of Tallapoosa County and the consolidation of the duties of these officers into the one office to be known as the county revenue commissioner, be approved? Yes \_\_\_\_\_ No \_\_\_\_\_."

If a majority of the votes cast at such election are "Yes" votes, then this act shall become effective as provided above. If a majority of the votes cast are "No" votes, this act shall have no further force or effect. The referendum election shall be held and conducted as nearly as may be in the same way as elections on amendments to

the Constitution. Notice of the election shall be given by the county commissioners of Tallapoosa County. Such notice shall be published once a week for three successive weeks before the day of the election. The judge of probate shall also certify the results of the election to the Secretary of State immediately after the returns have been certified.

**Section 9.** It is the purpose of this act to promote the public convenience in Tallapoosa County by consolidating the offices of tax assessor and tax collector into one office.

**Section 10.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:08 P.M.

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Act No. 90-627

H. 937—Rep. Johnson (RW)

## AN ACT

Relating to Tuscaloosa County and judicial appointments; establishing the Tuscaloosa County Judicial Commission, pursuant to Section 6.14 of Amendment 328 to the Constitution of 1901, as amended, to make recommendations for gubernatorial judicial appointments when vacancies exist,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Tuscaloosa County, pursuant to Section 6.14 of Amendment 328 to the Constitution of 1901, as amended, all vacancies in the office of judge of the circuit court and judge of the district court within the Sixth Judicial Circuit, occurring subsequent to the effective date of this act, shall be filled pursuant to the provisions of this act.

**Section 2.** The Tuscaloosa County Judicial Commission is hereby created for the purpose of nominating to the governor persons for appointment to such a vacancy:

(a) There shall be nine members of such commission who must all reside in the territorial jurisdiction of the circuit court of Tuscaloosa County. The members of the commission shall be: (1) one

attorney primarily or substantially engaged in a plaintiff civil practice; (2) one attorney primarily or substantially engaged in a defense civil practice; (3) one attorney primarily or substantially engaged in a domestic relations practice; (4) one attorney primarily or substantially engaged in a criminal defense practice; (5) the Tuscaloosa County district attorney; (6) the presiding Judge of the Sixth Judicial Circuit; and (7) three people who are not members of the Alabama state bar;

(b) Members of the commission shall be elected in the following manner:

(1) At least thirty days prior to the Tuscaloosa County Bar Association meeting at which any Alabama state bar member of the Tuscaloosa County Judicial Commission shall be elected, the Executive Committee of the Tuscaloosa County Bar Association shall provide notice of such election and a list of at least two nominees for each vacancy on the Tuscaloosa County Judicial Commission, (except for the positions held by the District Attorney for Tuscaloosa County and the presiding Judge of the Sixth Judicial Circuit), to all members of the Tuscaloosa County Bar Association. Any member may then submit additional nominations in writing to the President or Secretary of the Bar Association no later than fourteen days after the date upon which the list of nominees was provided, specifying the position on the Commission for which the nomination is made. All nominees must be members in good standing of the Alabama and Tuscaloosa County Bar Associations and must have been engaged in the active practice of law for at least five years;

(2) After the fourteen day period for nominations has passed, the County Bar Executive Committee shall certify each nominee who meets the criteria for election to the Commission;

(3) The names of all nominees certified by the Executive Committee for each vacant position shall be provided to all members of the Tuscaloosa County Bar Association at least seven days prior to the announced date of the election. The standing rules and regulations of the Tuscaloosa County Bar Association shall govern the election process during the Bar Association meeting;

(4) The members of the Commission who are not members of the state bar shall be selected by all members of the Tuscaloosa delegation. The senator and representatives shall certify in writing to the Secretary of the Tuscaloosa County Bar Association the name of the individual selected;

(c) The Secretary of the Tuscaloosa County Bar Association shall certify in writing to the Tuscaloosa County probate judge the names of the members of the commission. The probate judge shall record all certificates of election and shall safely and permanently

keep the original certificates. Upon receipt of such certificate of election, the probate judge shall send a certified copy to the governor.

(d) The terms of office of all members of such commission shall be six years, except that the initial terms of office of three members shall be two years, of three members four years, and of three members six years. The length of each initial term shall be designated by the Executive Committee of the Tuscaloosa County Bar Association. Any vacancy on the Tuscaloosa County Judicial Commission shall be filled for an unexpired term in the same manner such member was originally chosen.

**Section 3.** No member of the commission shall receive any salary or other compensation for such services. No member of the commission, other than the Tuscaloosa County District Attorney and the presiding Judge of the Sixth Judicial Circuit, shall hold any elected office nor shall any member hold any official position in any political party.

**Section 4.** After the effective date of this act, when a vacancy occurs in the office of circuit judge or district judge of the Sixth Judicial Circuit, the Tuscaloosa County Judicial Commission shall submit to the governor within forty-five days after such vacancy occurs a slate of three to five persons and who are qualified for such office. Such nomination shall be made only by the concurrence of the majority of members of the commission. The governor shall appoint to the office in which the vacancy exists one of the persons so nominated for such office. If the governor shall fail to make an appointment from the list within sixty days from the date it is presented to him, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same slate of nominees. The appointee shall hold such office from the date of appointment until a successor is elected and qualified.

**Section 5.** Within sixty days of the effective date of this act, the Tuscaloosa County Bar Association and the members of the Tuscaloosa County legislative delegation described hereinabove shall elect and the Secretary of the Tuscaloosa County Bar Association shall submit in writing to the probate judge the names of the members of the commission. Within forty-five days thereafter, the Tuscaloosa County Judicial Commission shall file with the Probate Judge the rules, procedures, and guidelines under which it will perform its duties pursuant to this act.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved April 25, 1990

Time: 7:09 P.M.

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Act No. 90-628

H. 886—Rep. Warren

### AN ACT

To amend Section 1 of Act No. 256, S. 392 of the 1973 Regular Session (Acts 1973, p. 289), entitled, "An Act to provide for an additional expense allowance for the members of the Monroe County Board of Registrars," so as to provide further for such expense allowance retroactive to October 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 256, S. 392 of the 1973 Regular Session (Acts 1973, p. 289), is hereby amended to read as follows:

"Section 1. Any member of the Monroe County Board of Registrars shall be entitled to receive an expense allowance in the amount of \$10.00 for each day such member either attends an official board meeting or otherwise reports for work and performs duties normally associated with the board's business. The expense allowance shall be paid out of county funds and shall be in addition to any and all other expense allowances, salary and compensation of the members of the Board of Registrars of Monroe County."

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:02 P.M.

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Act No. 90-629

H. 379—Rep. Butler

### AN ACT

To amend Sections 22-11A-15, 22-11A-16, 22-11A-17, 22-11A-18 and 22-11A-31 of the Code of Alabama 1975, relating to notifiable diseases, so as to remove the



requirement for a complete physical examination prior to obtaining a marriage license and to provide for the regulating of certain laboratory tests and the assessment of certain fees; to regulate further certain blood tests administered to pregnant women and newborn children; to remove the requirement that all persons confined in a city or county jail be tested for certain diseases; to provide that the state shall only be responsible for certain expenses incurred in the care and treatment of persons with certain diseases in certain instances; to remove the requirement that a commitment hearing be held before a jury; to authorize the regulation of certain laboratory tests, individual tests and diagnostic kits and the levying of certain fees; and to prescribe criminal penalties for persons in violation of said provisions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 22-11A-15, Code of Alabama 1975, is hereby amended to read as follows:

“§22-11A-15.

“(a) Except as provided in this section, each applicant for a marriage license shall file with the judge of probate a certificate from a legally licensed physician, setting forth that the applicant has been examined for syphilis and that, in the opinion of the examining physician, the person is either not infected with syphilis or, if infected with syphilis, it is not in a stage of that disease which is communicable. Such examination on the part of the physician shall include an approved laboratory test for syphilis.

“(b) The certificate mentioned in subsection (a) of this section shall be accompanied by a statement from the person in charge of the laboratory making the required tests or from some other person authorized to make such reports. A separate form shall be used to show the results of the test and shall be transmitted by the laboratory to the physician.

“(c) The certificate of the examining physician mentioned in subsection (a) of this section and the statement of the person authorized to make reports for the laboratory shall be on a form approved, provided and distributed by the Alabama state board of health or on any similar form which may be used by any physician or laboratory authorized by this title to perform such examinations and laboratory tests.

“(d) The laboratory tests required by this section shall be performed by methods approved by the state board of health, either in a laboratory of the Alabama state board of health, a laboratory approved by the Alabama state board of health, a laboratory operated or approved by the board of health or similar department of another state within which such laboratory is situated or a laboratory operated or approved by an agency of the federal government. When approving laboratory methods and laboratories to perform tests pursuant to this section, the state board of health shall establish a proficiency

testing program necessary to ascertain the qualifications and competency of the personnel conducting the tests. The state board of health is further authorized to charge a reasonable fee to offset the cost of the proficiency testing program. All fees collected shall be deposited to the credit of the state board of health for the purpose of carrying out the provisions of this chapter. Such laboratory tests must be made within 30 days prior to the issuance of the marriage license.

“(e) Before the judge of probate issues any marriage license, he shall attach thereto the certificate relating to each applicant. No minister or other person authorized to perform marriage ceremonies in Alabama shall perform a ceremony unless the certificate as to each contracting party is attached to the marriage license.

“(f) If, on the joint application of both parties to a proposed marriage, the judge of probate is satisfied that an emergency exists or is satisfied that the parties have previously married each other and have continuously lived together as husband and wife since such marriage but must remarry to cure some defect in the previous marriage, he may waive the requirement of this section and issue a license, provided all other requirements of the marriage laws have been complied with.

“(g) If certificates have been refused because one or both of the applicants have been found to be infected with syphilis and if the judge of probate is satisfied that an emergency exists, he may, on joint application by both parties to the proposed marriage, issue a license, provided all other requirements of the marriage laws have been complied with.

“(h) An emergency shall be defined as:

“(1) Impending death in either of the contracting parties; and

“(2) Such other causes as may be defined, from time to time, by the state board of health.

“(i) Except as otherwise provided in this section, any applicant for a marriage license, physician or representative of a laboratory who shall willfully misrepresent any of the facts called for by the certificate prescribed in this section, or any judge of probate who shall fail to receive such certificate or who shall issue a license to marry without such certificate, or any minister or other person who shall otherwise fail to comply with the provisions of this section, shall be guilty of a Class C misdemeanor.

“(j) Examiners shall be physicians duly licensed to practice medicine in Alabama or in the state in which they reside. Upon the request of each applicant, the health officer of any county of this

state shall make the necessary examinations and issue such certificate, if the same can be properly issued, without charge to the applicants.”

**Section 2.** Section 22-11A-16, Code of Alabama 1975, is hereby amended to read as follows:

“§22-11A-16.

“(a) Every physician or other person permitted by law to attend a pregnant woman during gestation shall, in the case of each woman so attended, take or cause to be taken blood samples of such woman during the first and third trimesters and submit such samples to a laboratory approved by the state board of health for a standard serologic test for syphilis.

“(b) Every physician or other person permitted by law to attend a pregnant woman during delivery shall take or cause to be taken a sample of the blood from the umbilical cord of the newborn and submit such sample to a laboratory approved by the state board of health for a standard serologic test for syphilis.

“(c) All positive or reactive tests shall be reported as provided in section 22-11A-14.”

**Section 3.** Section 22-11A-17, Code of Alabama 1975, is hereby amended to read as follows:

“§22-11A-17.

“(a) All persons sentenced to confinement or imprisonment in any city or county jail or any state correctional facility for 30 or more consecutive days shall be tested for those sexually transmitted diseases designated by the state board of health, upon entering the facility, and any inmate so confined for more than 90 days shall be examined for those sexually transmitted diseases 30 days before release. The results of any positive or reactive tests shall be reported as provided in section 22-11A-14. Provided however, the provisions of this section shall not be construed to require the testing of any person prior to sentencing nor the testing of any person held in a city or county jail awaiting removal to a state correctional facility.

“(b) The authorities of any state, county or city facility shall provide for treatment of any inmate diagnosed with a treatable sexually transmitted disease and not otherwise financially able to pay for such treatment. In the case of a discharged inmate who is infectious, a written notice shall be submitted to the state health officer or to the county health officer of the locality to which the prisoner is returned, setting forth the necessary facts and a record of the treatment administered while in custody.”

**Section 4.** Section 22-11A-18, Code of Alabama 1975, is hereby amended to read as follows:

“§22-11A-18.

“(a) Any person where there is reasonable cause to believe has a sexually transmitted disease or has been exposed to a sexually transmitted disease shall be tested and examined by the county or state health officer or his designee or a licensed physician. Whenever any person so suspected refuses to be examined, such person may be isolated or committed as provided in this chapter until, in the judgment of the state or county health officer, that person is no longer dangerous to public health. The cost of rooming and boarding such person, other than when confined to his/her own residence, shall be the responsibility of the state.

“(b) The state health officer or county health officer shall require all persons infected with a sexually transmitted disease to report for treatment by the health officer or a license physician, and continue treatment until such disease, in the judgment of the attending physician is no longer communicable or a source of danger to public health. When such infected persons are unable to pay the attending physician's fees and are indigent, they shall submit to treatment at state expense. Whenever, in the judgment of the state or county health officer, such a course is necessary to protect public health, a person infected with a sexually transmitted disease may be committed or isolated for compulsory treatment and quarantine in accordance with the provisions of this chapter. The cost of rooming and boarding such person, other than when confined to his/her own residence, shall be the responsibility of the state.”

**Section 5.** Section 22-11A-31, Code of Alabama 1975, is hereby amended to read as follows:

“§22-11A-31.

“At all hearings conducted by the probate judge in relation to a petition to commit any person to the custody of the Alabama department of public health or such other facility as the court may order, the following rules shall apply:

“(1) The person sought to be committed shall be present unless, prior to the hearing, the attorney for such person has filed in writing a waiver of the presence of such person on the ground that the presence of such person would be dangerous to such person's health or that such person's conduct could reasonably be expected to prevent the hearing from being held in an orderly manner, and the probate judge has judicially found and determined from evidence presented in an adversary hearing that the person proposed to be committed is so mentally or physically ill as to be incapable of attending such

proceedings. Upon such findings, an order shall be entered approving the waiver.

“(2) The person sought to be committed shall have the right to compel the attendance of any witness who may be located anywhere in the state of Alabama and to offer evidence including the testimony of witnesses, to be confronted with the witnesses in support of the petition, to cross-examine and to testify in his own behalf, but no such person shall be compelled to testify against himself. The attorney representing the person sought to be committed shall be vested with all rights of said person during all of the hearings if such person is not present in court to exercise his rights.

“(3) The probate judge shall cause the hearing to be transcribed or recorded stenographically, mechanically, or electronically and shall retain such transcription for a period of not less than three years from the date the petition is denied or granted and not less than the duration of any commitment pursuant to such hearing.

“(4) All hearings shall be heard by the probate judge and shall be open to the public unless the person sought to be committed or his attorney requests in writing that the hearings be closed to the public.

“(5) The rules of evidence applicable in other judicial proceedings in this state shall be followed in involuntary commitment proceedings.”

**Section 6.** All laboratory tests for acquired immune deficiency syndrome (AIDS) or like test for viruses that lead to the development of AIDS or any other notifiable disease that may be designated by the state board of health, shall be a test approved by the board. When approving such test the board of health shall develop a proficiency testing program necessary to ascertain the qualifications and competency of the personnel conducting the test. The state board of health is authorized to charge a reasonable fee to offset the cost of the proficiency testing program. All fees collected shall be deposited to the credit of the state board of health for the purpose of carrying out the provision of chapter 11A of Title 22 of the Code of Alabama of 1975. Any laboratory or personnel thereof who reports the test results of any of the diseases referenced in this section when performed by any methods or procedures not approved by the board of health shall be guilty of a Class C misdemeanor.

**Section 7.** All individual testing and diagnostic kits or like kits for the identification of any of the designated notifiable diseases in chapter 11A of Title 22 of the Code of Alabama of 1975 that are advertised, promoted or marketed for sale to the general public in the state shall be approved by the state board of health.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:04 P.M.

Act No. 90-630

H. 345—Reps. Harper, Carter, Zoghby,  
Kvalheim, Penry and Gray

### AN ACT

To amend Sections 33-4-30, 33-4-31 and 33-4-34 of the Code of Alabama 1975, relating to bar pilots and pilotage, so as to provide further for the number, requirements and qualifications of apprentices and pilots, to provide for the method of selecting apprentices, and to provide for the method of branching pilots.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 33-4-30, 33-4-31 and 33-4-34 of the Code of Alabama 1975, are hereby amended to read as follows:

“§33-4-30.

“a. At no time shall there exist more apprentices or pilots than are reasonably necessary to meet the requirements of commerce, the number of apprentices and pilots to be left to the reasonable discretion of the state pilotage commission.

“b. The commission shall be the sole judge of the seniority and statutory qualifications of applicants to be apprenticed and branched.”

“§33-4-31.

“a. In order to prevent delays in the apprenticeship and branching of bar pilots, the commission shall when necessary maintain a register of applicants containing no more than nine (9) applicants for apprenticeship who must be not less than eighteen years of age.

“b. Applicants for apprenticeship from the Register of Applicants will be considered by the commission for apprenticeship in order of their seniority which shall be based upon the date of completion of all requirements to be a bar pilot except apprenticeship, application

to be a pilot, passage of the commission's written examination and branch, which requirements are set out in subsections (b) (c) and (e) of section 33-4-34.

"c. No person may commence his or her apprenticeship unless the commission finds that (i) the applicant meets all statutory requirements for apprenticeship required by subsection b above, and (ii) there is a need for an apprentice.

"d. An apprentice must, in order to complete the apprenticeship, (i) complete, to the satisfaction of the commission, at least six months as an apprentice pilot or (ii) make, to the satisfaction of the commission, at least fifty (50) round trips with a branched pilot on vessels in Mobile Bay which are subject to the statutory requirement of compulsory pilotage, whichever first occurs.

"e. No person may be selected for apprenticeship prior to his or her twenty-first birthday."

"§33-4-34.

"A person, to be eligible to be branched or licensed as the next bar pilot, must meet the following criteria at the time of branching or licensing:

"a. Must be the senior apprentice, with seniority to be determined by date of satisfactory completion of all requirements to be a pilot except the written examination given by the state pilotage commission;

"b. Must be a citizen of the United States and of Alabama;

"c. Must be of good moral character;

"d. Must have completed satisfactorily all requirements of the apprenticeship; and

"e. Must hold and have the following current United States Coast Guard licenses and experience:

"(i) either (1) an unlimited second mate of oceans license with one (1) year's experience as third mate, or (2) a master license of freight or motor vessel of 1,600 gross tons with one year's experience as master of vessels of at least 150 gross tons;

"(ii) either (1) three years' experience in a deck department capacity on one or more vessels navigating Mobile Ship Channel, or (2) three years' experience at sea in a deck department capacity on oceangoing vessels of 1,600 gross tons or over, or (3) be a graduate of a nationally recognized maritime academy holding a Bachelor of Science degree and have two years' experience at sea in a deck department capacity on oceangoing vessels of 1,600 gross tons or over; and

“(iii) must hold a first class federal pilot license for the Mobile ship channel;

“f. Must demonstrate, if required by the commission to do so, sufficient evidence of satisfactory experience in the safe navigation and handling of vessels, and must pass a practical demonstration to be administered by the active Mobile bar pilots licensed by the state pilotage commission showing their ability to safely pilot steam and motor vessels of unlimited tonnage and tugs with tows. The demonstration shall be deemed satisfactorily completed if two-thirds majority of the active Mobile Bay bar pilots licensed by the state of Alabama shall certify such successful completion;

“g. Must pass a written test administered by the commission; and

“h. Must make written application to be branched or licensed, accompanied by his or her affidavit that the applicant meets every statutory requirement to be branched;

“i. Must have been employed in a deck department capacity on steam or motor vessels navigating either inland waters or oceans for a majority of the last five (5) years; and

“j. Must be a high school graduate.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:06 P.M.

Act No. 90-631

H. 487—Reps. Moon, Newman, Freeman,  
Grouby and Sanderford

### AN ACT

To amend Section 41-16-21, Code of Alabama 1975, relating to certain contracts for which competitive bidding is not required, so as to provide that advertising of the state parks by the department of conservation and natural resources shall be exempt from such bidding requirements.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-16-21, Code of Alabama 1975, is hereby amended to read as follows:

“§41-16-21.

“(a) Competitive bids shall not be required for utility services where no competition exists or where rates are fixed by law or



ordinance, and the competitive bidding requirements of this article shall not apply to: the purchase of insurance by the state; contracts for the securing of services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part; contracts of employment in the regular civil service of the state; tourist advertising by the state bureau of tourism and travel authorized under section 41-7-4 or advertising of the state parks by the department of conservation and natural resources; purchases of alcoholic beverages only by the alcoholic beverage control board; purchases for any hospital or campus medical facility which has a total licensed bed capacity of no less than 800 beds at the time of passage of this act, operated by any state department, except the department of mental health and mental retardation, board, bureau, commission, committee, institution, upon approval of the governing board of said institution, corporation, authority or office; purchases by the state highway department of local materials from any property owners in the vicinity of a project on which such local materials shall be used or purchases and contracts for repair of equipment used in the construction and maintenance of highways by the state highway department; purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with sections 21-2-1 through 21-2-4; purchases of maps or photographs purchased from any federal agency; purchases of manuscripts, maps, books, pamphlets or periodicals purchased for the use of any state library or any other library in the state supported in whole or in part by state funds; contractual services and purchases of commodities for which there is only one vendor or supplier; contractual services and purchases of personal property, which by their very nature are impossible of award by competitive bidding; barter transactions by the department of corrections; and purchases, contracts or repairs by the state docks department when it is deemed by the director of state docks and the secretary-treasurer of the state docks department that such purchases, contracts or repairs are impractical of award by competitive bidding due to the exigencies of time or interference with the flow of commerce; provided, that the director of state docks and the secretary-treasurer of the state docks department shall place a sworn statement in writing in the permanent file or records setting out the emergency relied upon and the necessity for negotiation instead of proceeding by competitive bidding in said instance, and such sworn statement shall be open to public inspection. A copy of such sworn statement shall be furnished forthwith to the chief examiner of public accounts.

“(b) All educational and eleemosynary institutions governed by a board of trustees or other similar governing body and the state

docks department shall be exempt from the provisions of this article which relate to the powers, duties, authority, restrictions and limitations conferred or imposed upon the department of finance, division of purchases and stores; provided, however, that the said educational and eleemosynary institutions, the state docks department and the other state agencies exempted from the provisions of this article or any part hereof shall let by free and open competitive bidding on sealed bids to the lowest responsible bidder all contracts of whatever nature for labor, services or work or for the purchase or lease of materials, equipment, supplies or other personal property involving \$2,000.00 or more. The said institutions, departments and agencies shall establish and maintain such purchasing facilities as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each such institution, department or agency.

“(c) Contracts entered into in violation of this article shall be void.

“(d) Nothing in this section shall be construed as repealing sections 9-2-106 and 9-2-107.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:08 P.M.

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Act No. 90-632

H. 29—Rep. Flowers

### AN ACT

To provide for the reopening of the Teachers' Retirement System of Alabama to those members who prior to the effective date of this act have previous employment with a school operated by the Department of Defense of the United States of America. To provide for the calculation for the cost of the purchase of such service and to provide for a termination date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any active and contributing member of the Teachers' Retirement System of Alabama who prior to the effective date of this act was a regular employee of a school operated by the Department of Defense of the United States of America and is now covered by the Teachers' Retirement System shall be eligible to receive credit for such service provided that the member of the

Teachers' Retirement System claiming such credit shall have attained not less than 10 years of contributing membership service credit exclusive of military service credit under the Teachers' Retirement System, and provided further that such member performs and complies with the conditions prescribed in Section 2 of this act.

**Section 2.** A member of the Teachers' Retirement System of Alabama eligible under Section 1 of this act may receive credit for employment rendered to a school operated by the Department of Defense of the United States of America as provided in Section 1 of this act, provided that as a condition precedent to the receipt of such credit (a) such member shall contribute prior to the date of his retirement to the Teachers' Retirement System for each year of employment with a school operated by the Department of Defense of the United States of America a percentage of his current annual compensation or average final compensation, whichever is greater; the applicable percentage of said annual compensation or average final compensation, whichever is greater shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation. (b) The employer for which such member was employed shall certify in writing to the Teachers' Retirement System the dates of the member's employment together with a statement certifying that such member was a regular employee of a school operated by the Department of Defense of the United States of America during such period of claimed service. (c) The member shall claim, purchase and receive credit for eligible service in increments of not less than one year unless such member's total balance of such service is less than one year in which event he shall claim and purchase credit for the entire period.

**Section 3.** Anything in this section to the contrary notwithstanding, a member of the Teachers' Retirement System shall not receive credit for such service where at the time of retirement he has credit or is entitled to any benefits whatsoever for the same service under any other retirement or pension plan which is wholly or partly funded from public funds, provided, however, that nothing contained herein shall be construed to apply to participation in the federal Social Security program. In the event of disqualification of such service credit contributions made under this section by the member shall be refunded to him.

**Section 4.** The Teachers' Retirement System may deduct in 12 equal installments from the retirement allowance payable to a retired member any additional contributions necessary to pay the administrative costs incurred in granting the credit hereunder in the event its Board of Control and consulting actuaries thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay such administrative costs.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:10 P.M.

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Act No. 90-633

H. 468—Rep. Johnson (RG)

### AN ACT

To provide that any member of the Teachers' Retirement System who is employed as a teacher in the public schools of Alabama may purchase credit for such service regardless of the manner in which the member's salary was paid or the source of such funds; provided, however, that this provision shall not apply to any member who at the time of such claimed service was also a student at the institution by which he was employed.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any person who on the effective date of this act was a member of the Teachers' Retirement System who was employed in a public school in Alabama shall be entitled to receive credit for all service rendered in such public school regardless of the manner in which the member's salary was paid or the source of funds for such salary; provided, however, that this provision shall not apply to any person who at the time of such service with a public school was also a student at the institution by which he was employed.

**Section 2.** Any person employed in the capacity set out in Section 1 of this act shall be entitled to receive credit for all service as a teacher rendered by him provided that said person pays to the secretary-treasurer within one year from the effective date of this act for each year of claimed service, a sum equal to a percentage of his average final compensation or current annual earnable compensation, whichever is greater, the applicable percentage shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuations, for each year of service purchased. In the event the employer is unable to verify the salary or employment of any person covered in Section 1 of this act, upon certification of such employer that records are not available, the member may submit affidavits from two disinterested parties with personal knowledge attesting to the salary and employment of said member.

**Section 3.** This act shall become effective October 1, 1990 upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:11 P.M.

Act No. 90-634

H. 590—Rep. Buskey (JL)

### AN ACT

To amend further Section 12-17-4, Code of Alabama 1975, relating to retirement benefits of certain court employees who became state employees under the Judicial Article Implementation Act, so as to grant and authorize the purchase of certain prior service credit to certain employees; to provide for the transfer of certain funds from locally administered retirement systems to the state employees' retirement system and to provide for employer and employee contributions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-4, Code of Alabama 1975, is hereby amended to read as follows:

“§12-17-4.

“(a) Retirement.—Employees of the circuit and district court, hereinafter, ‘eligible employees,’ shall, on the date they join or joined the state personnel system, be covered by the employees’ retirement system of Alabama; provided, that an employee who on that date is covered by a local retirement system may by written notice filed within 30 days prior to the date the employee joins the state personnel system, with the comptroller, elect to retain instead membership in the local retirement plan; provided further, that any employee joining the state personnel system on or before October 1, 1977, shall have the right to make such election within 30 days prior to October 1, 1977. Upon election of an employee, the comptroller shall pay to such local government plans the employer retirement contribution attributable to employees electing to retain local plan membership; provided, that such employer contribution paid by the state to such local retirement plan shall not exceed the employer contribution paid by the state for eligible members transferring to the employees’ retirement system of Alabama. The previous local employer shall pay into such local plan any additional amounts necessary to fund said benefits.

“(b) Prior service benefits.

“(1) BENEFITS FOR ELIGIBLE EMPLOYEES UNDER LOCAL PLANS.—Eligible employees who have participated in retirement programs with units of local government whether or not such

local programs have utilized the state employees' retirement plan to administer the funding of such plans shall receive credit for prior service for which they have been given credit under the local retirement programs. When an eligible employee joins the employees' retirement system, the total of all employer and employee contributions plus any other amounts, including, but not limited to, interest attributable to the account of such employee to which he would have had the right to receive upon withdrawal from the local retirement program, shall be transferred immediately into the state employees' retirement fund on account of such employee under the same rules and regulations applicable to other members of the state employees' retirement system on the date the employee joins the employees' retirement system of Alabama. Any contributions represented by annuities purchased by or through the previous employer on account of the employment therewith of any eligible employee and for his individual benefit shall be immediately cashed out and the proceeds transferred along with any other regular contributions to the employees' retirement system of Alabama.

**"(2) BENEFITS FOR ELIGIBLE EMPLOYEES COVERED BY UNFUNDED LOCAL RETIREMENT PROGRAMS OR EMPLOYEES NOT PREVIOUSLY COVERED BY RETIREMENT PLANS.**—Eligible employees who have participated in unfunded local retirement programs or who have not participated in retirement programs with units of local government shall be granted prior service credit by the employees' retirement system of Alabama, based on length of previous court employment, to a maximum of five years. The secretary-treasurer of the employees' retirement system of Alabama shall authorize and direct the comptroller to pay the cost of granting such prior service credit in such amounts as determined to be necessary, and the comptroller shall pay such amounts as necessary for both employer and employee contributions into the employees' retirement fund on account of such eligible employee under the same rules and regulations applicable to other members of the employees' retirement system. In addition to the five-year prior service credit described above, any eligible employee may purchase prior service credit, not to exceed actual years served, by direct payment to the employees' retirement system, within 90 days after October 1, 1977, in such amount as determined to be necessary by the employees' retirement system for he prior service credit desired.

**"(3) Eligible employees who participated in retirement programs with units of local government for less than one year preceding October 1, 1977, whether or not such local programs utilized the state employees' retirement plan to administer the funding of such plans shall be granted prior service credit by the employees' retirement system of Alabama, based on length of previous court employment, to a maximum of five years. When an eligible employee joins the**

employees' retirement system, the total of all employer and employee contributions plus any other amounts, including, but not limited to, interest attributable to the account of such employee to which he would have had the right to receive upon withdrawal from the local retirement program, shall be transferred immediately into the state employees' retirement fund on account of such employee under the same rules and regulations applicable to other members of the state employees' retirement system on the date the employee joins the employees' retirement system of Alabama. Any contributions represented by annuities purchased by or through the previous employer on account of the employment therewith of any eligible employee and for his individual benefit shall be immediately cashed out and the proceeds transferred along with any other regular contributions to the employees' retirement system of Alabama. The secretary-treasurer of the employees' retirement system of Alabama shall authorize and direct the comptroller to pay the cost of granting such prior service credit in such amounts as determined by be necessary, and the comptroller shall pay such amounts as necessary for both employer and employee contributions into the employees' retirement fund on account of such eligible employee under the same rules and regulations applicable to other members of the employees' retirement system. In addition to the five-year prior service credit described above, any eligible employee may purchase prior service credit, not to exceed actual years served, by direct payment to the employees' retirement system, within 360 days after January 1, 1990, in such amount as determined to be necessary by the employees' retirement system for the prior service credit desired.

“(c) Other Benefits.—The administrative office of courts shall, after consultation with the state and local personnel systems, adjust benefits other than retirement of court personnel joining the state personnel system, including clerks, registers and judges. Such adjustment shall be made as of the date upon which the employee joined or joins the state personnel system and shall assure continuation of existing employee benefits at the same rates and amounts as were in effect for such employees on August 1, 1975; provided, that the administrative director of courts may, in his or her discretion, adjust or increase such benefits to allow for normal incremental increases or additions to such benefits received by court employees on or after August 1, 1975, whether such employees were hired by the unit of local government before, on or after August 1, 1975. The administrative director of courts shall thereafter make such future adjustments as are necessary to maintain such rates and amounts of benefits as were in effect for such employees on August 1, 1975. For court personnel employed after August 1, 1975, but before the date upon which court employees in his or her unit of local government join the state personnel system, including clerks, registers and judges,

benefits under this section shall be established at such levels as were in effect for employees similarly situated on August 1, 1975, or, if such employee was employed in a new position not existing on August 1, 1975, benefits for such employee shall be established at such levels as the administrative director of courts in his or her discretion determines to be appropriate based upon benefit levels which were in effect on August 1, 1975, for similar classes of employees. Subsequent to the establishment of such benefits and the employer costs thereof, the administrative director of courts shall determine the method of administering the fringe benefits for such employees through the local government units for whom such employees were employed prior to state assumption or through the state fringe benefit programs. If the administrative director of courts determines that it is impractical or unfeasible to administer the benefits for such employees through the state fringe benefit program, the local government units for whom such employees were employed prior to state assumption shall retain such employees in their fringe benefit programs; provided, that the administrative director of courts shall in such instances establish reimbursement procedures for the payment of the employer costs to such local government units. The comptroller shall, subsequent to the establishment of such benefits and the employer costs thereof and at any time it may be necessary to establish or adjust such benefits, pay the employer contributions as established by the administrative director of courts."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:12 P.M.

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Act No. 90-635

H. 884—Rep. Newman

## AN ACT

To establish the Alabama Coalbed Methane Gas Well Plugging Fund, to provide for the payment, beginning the effective date of this act, of additional fees by persons drilling coalbed methane gas wells in order to finance said fund for the purpose of providing funds to properly plug coalbed methane gas wells in the event they are abandoned without being properly plugged and the surety bonds filed by operators of such wells prove insufficient for such purpose; to provide for the investment and use of moneys in said fund; to provide that said fees shall not be charged in the event and so long as the sum of moneys in said fund shall exceed \$1,000,000 in amount; to provide for the disposition and appropriation of moneys in said fund in certain events; to provide for the replenishment of said fund; to repeal inconsistent laws; and to provide for an effective date.



*Be It Enacted by the Legislature of Alabama:*

**Section 1. Findings.** The legislature of the state of Alabama finds and declares that the protection of Alabama's environment is vital to the economy of this state; that coalbed methane gas wells are an important source of natural gas for use in industry and by consumers thereof in Alabama and are becoming increasingly common in Alabama as the technology for such wells advances; that the broadest possible promotion of public and private interests requires that coalbed methane gas wells be properly plugged when abandoned; that delays therein may affect the environment or public health, safety and welfare; that adequate financial resources that be readily available to provide for the expeditious plugging of such wells and to provide a means for doing so without delay; that the legislature has heretofore authorized the State Oil and Gas Board of Alabama to require that operators of such wells provide evidence of financial responsibility to cover the costs of plugging such wells; that performance bonds so required and obtained for such purpose may not be adequate in amount or even obtainable in the present insurance market; and that the health, safety, and welfare of the citizens of the State of Alabama will be enhanced and protected by the provisions of this Act.

**Section 2. Short Title.** This Act may be cited as the "Alabama Coalbed Methane Gas Well Plugging Fund Act."

**Section 3. Definitions.** For the purposes of this act, unless otherwise indicated, the following terms shall have the meanings respectively ascribed to them by this section:

(a) Board. The State Oil and Gas Board created in Section 9-17-3.

(b) Fund. The Alabama Coalbed Methane Gas Well Plugging Fund established in Section 4 hereof.

(c) Coalbed Methane Gas Well. A well capable of producing occluded natural gas from a coalbed or coalbeds.

(d) Plugging Fee. The fee authorized by Section 8 of this Act.

(e) Operator. Any person who notifies the Supervisor pursuant to Section 9-17-24 of such person's desire or proposal to drill a Coalbed Methane Gas Well.

(f) Person. Any natural person, firm, corporation, association, partnership, joint venture, receiver, trustee, guardian, executor, administrator, fiduciary, representative of any kind or any other group acting as a unit.

(g) Supervisor. The State Oil and Gas Supervisor.

**Section 4.** Alabama Coalbed Methane Gas Well Plugging Fund. There is hereby created the Alabama Coalbed Methane Gas Well Plugging Fund to be held by the State Treasurer and administered by the Supervisor. The Fund shall be used for carrying out the purposes of this Act. To the fund shall be credited all the Plugging Fee revenues levied, collected and credited thereto pursuant to Section 8 of this Act. Charges against and disbursements from the Fund shall be made only in accordance with the provisions of this Act.

**Section 5.** Determination by the Board of Coalbed Methane Gas Wells Requiring Plugging. Whenever, in the determination of the Board, after reasonable notice to the Operator of a Coalbed Methane Gas Well and a hearing held by the Board and pursuant to such notice:

(a) the failure of the Operator of a Coalbed Methane Gas Well to plug such well may pose a threat to the environment or to the public health, safety or welfare,

(b) the Operator of said well shall have failed or refused to plug such Coalbed Methane Gas Well within a period deemed reasonable by the Board, and

(c) the bond or other security filed by such Operator under Section 9-17-6(c)(5) is or is expected to be inadequate to provide for the payment of the costs of plugging said well, the Board shall undertake to provide for the proper plugging of said well through the use of moneys in the Fund, provided that moneys adequate for such purpose, taking into account the aforesaid bond or other surety, shall then be on deposit in the Fund.

**Section 6.** Action Authorized to be Taken by the Board. Upon making the determination described in Section 5 hereof, the Board shall first collect the proceeds of the bond or bonds or the blanket bond of the Operator filed as security under Section 9-17-6(c)(5), and shall forthwith apply the proceeds of such bond or bonds to the expense of causing such well or wells with respect to which such determination shall have been made to be plugged, which action the Board is hereby authorized to take either directly or through contracts therefor entered into by the Board with private persons or with other governmental agencies. Should the Board determine that the proceeds of such bond or bonds are in fact insufficient to cover the entire expense of causing such well or wells to be plugged, the Supervisor shall be authorized to execute and verify itemized vouchers to be submitted to the State Comptroller for the withdrawal from the Fund of amounts equal to such expenses as may be incurred by the Board in connection therewith in excess of bond coverage. Upon the presentation of such vouchers, there is hereby appropriated from moneys in the Fund such amount as shall be necessary for the payment of

such expenses, and the State Comptroller is authorized to issue appropriate warrants on the State Treasurer for reimbursement to the Board of such expenses incurred by it in taking the aforesaid action to plug Coalbed Methane Gas Wells or for payment of such private persons or governmental agencies as shall have been engaged by the Board to take such action pursuant to the provisions hereof.

**Section 7.** Liability of Owners and Operators. Whenever costs of plugging a Coalbed Methane Gas Well shall have been incurred by the Board pursuant to this Act and the Board shall have authorized the expenditure of moneys from the Fund pursuant to Section 6 hereof for the purpose of plugging a Coalbed Methane Gas Well, the Operator thereof and each and every owner of a working interest in the well bore of such well shall be jointly and severally liable to the State for repayment of the amount of such moneys, and the Board is authorized to institute appropriate civil actions in the courts in the name of the State to recover such amounts. Any amounts so recovered shall be paid into the Fund. Further, nothing in this Act shall be construed to relieve any Operator or owner of a working interest in the well bore of any Coalbed Methane Gas Well of any liability to any third party for damages incurred because of failure to plug any Coalbed Methane Gas Well.

**Section 8.** Plugging Fees Payable into Fund; Investment and Use of Fund.

(a) In addition to the requirements and fees provided for in Section 9-17-24(a), any person desiring, after the effective date of this Act, to drill any Coalbed Methane Gas Well in this State shall pay to the State a Plugging Fee of \$150.00 respecting each such well desired to be drilled, such Plugging Fees to be deposited with the State Treasurer in the Fund; provided, however, that no Plugging Fees shall be required to be paid during any time when the unobligated balance of the Fund shall exceed the sum of \$1,000,000. Any provisions of law to the contrary notwithstanding, no permit for the drilling of any Coalbed Methane Gas Well shall be issued by the Board until the fee provided for in this Section shall be paid, if due.

(b) The moneys in the Fund shall be invested by the State Treasurer of Alabama in the same manner as state funds generally; provided, however, that only fifty percent of all interest and earnings accruing thereon shall be credited to the state general fund and the remainder shall be credited to the Fund; said moneys and the interest and earnings credited to the Fund shall be used only for the purposes set forth in this Act and for no other purposes, and no portion thereof shall be available for loan to any agency or branch of state government, it being the intent of the Legislature that the Fund shall remain intact and inviolate for the purposes set out in this Act or until terminated as provided herein.

(c) Moneys in the Fund shall be paid out only by warrant of the State Comptroller upon the State Treasurer, upon itemized vouchers executed by the Supervisor as provided in Section 6 hereof, and in the event of termination of the Fund as provided herein.

**Section 9.** Termination of Fund. Should the Board determine that all Coalbed Methane Gas Wells in the State of Alabama have been plugged and abandoned, or should the Board determine, after notice and hearing, that the Fund is no longer necessary in order to carry out the purposes of this Act, then the Supervisor shall so certify this determination to the State Comptroller and the State Treasurer and all moneys in the Fund shall, promptly following the filing with the State Comptroller and the State Treasurer of such certification, be disbursed and are hereby appropriated to all counties in the State of Alabama where Coalbed Methane Gas Wells shall have been permitted pursuant to the provisions of Chapter 17 of Title 9, to be divided among such counties based on the number of Coalbed Methane Gas Wells permitted in each such county, for deposit into the general funds of such counties, and to be used for those purposes for which said general funds were established.

**Section 10.** No Liability of State, Board or Supervisor to Third Parties. Nothing in this Act shall establish or create any liability or responsibility on the part of the Board, the Supervisor or the State of Alabama to pay any costs incurred or damages incurred or damages suffered by any person or to pay any third party claims from any source arising from the failure of any Coalbed Methane Gas Well to be properly plugged, nor shall moneys in the Fund be used to make any payments of such costs or damages.

**Section 11.** Severability. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** Repealer. All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 13.** Effective Date. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:00 P.M.

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Act No. 90-636

H. 898—Rep. Hill

### AN ACT

To amend Sections 35-11-46 and 35-11-47, Code of Alabama 1975, relating to federal lien registration, so as to clarify existing law that notices regarding federal

liens filed in the office of the judge of probate also are to be cross-indexed in the real property records; to provide that notices and other documents filed under the Alabama Uniform Federal Lien Registration Act shall be deemed to be in the standard form prescribed by the secretary of state and to provide that the charges for filing federal liens shall be those specified in the Alabama Uniform Federal Lien Registration Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 35-11-46, Code of Alabama 1975, is hereby amended to read as follows:

“§35-11-46.

“(a) If a notice of a federal lien, a refile of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented for filing, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 7-9-403(4) of the Uniform Commercial Code, as if the notice were a financing statement within the meaning of that Code, and if the filing officer is the judge of probate, the filing officer also shall cause the notice to be cross-indexed in the real estate mortgage records under the name of the person against whose interest the lien applies in the same fashion as if such person were the mortgagor in a mortgage of real estate and also under the name of the person claiming the lien as if such person were the mortgagee thereunder.

“(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the filing officer for filing, the filing officer shall:

“(1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

“(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

“(c) When the filing officer is the secretary of state, the secretary of state shall issue a filing officer’s certificate upon the request of any person. When the filing officer is the probate judge, the probate judge may issue a filing officer’s certificate upon the request of any person. The certificate shall show whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this division or sections 35-11-40 and 35-11-41, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate shall be the same as the then applicable uniform fee for obtaining information from the filing officer

pursuant to section 7-9-407 of the Uniform Commercial Code. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee that is the same as the then applicable uniform fee for obtaining copies from the filing officer pursuant to section 7-9-407 of the Uniform Commercial Code."

**Section 2.** Section 35-11-47, Code of Alabama 1975, is hereby amended to read as follows:

"§35-11-47.

"The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:

"(1) For a lien on real estate, the same as the then applicable uniform fee for filing and indexing financing statements pursuant to section 7-9-403 of the Uniform Commercial Code;

"(2) For a lien on tangible and intangible personal property, the same as the then applicable uniform fee for filing and indexing financing statements established by section 7-9-403 of the Uniform Commercial Code;

"(3) For a certificate of discharge or subordination, the same as the then applicable uniform fee for filing and indexing termination statements pursuant to section 7-9-404 of the Uniform Commercial Code;

"(4) For all other notices, including a certificate of release or nonattachment, the same as the then applicable uniform fee for filing and indexing termination statements pursuant to section 7-9-404 of the Uniform Commercial Code.

"For purposes of this section, any notice or other document filed under the Alabama Uniform Federal Lien Registration Act pursuant to federal law or federal regulation shall be deemed to be in the standard form prescribed by the secretary of state. Only those fees specifically enumerated in sections 7-9-403 and 7-9-404 of the Uniform Commercial Code shall be charged.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:13 P.M.

Act No. 90-637

H. 530—Rep. Biddle

## AN ACT

To amend Section 15-16-22, Code of Alabama 1975, relating to the composition of the commission on lunacy, so as to change the composition of said commission; to allow for a licensed psychologist to serve on said commission; and to further provide for the qualifications and requirements of said commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 15-16-22 Code of Alabama 1975, is hereby amended to read as follows:

“§15-16-22.

“(a) Whenever it shall be made known to the presiding judge of a court by which an indictment has been returned against a defendant for a capital offense, that there is reasonable ground to believe that such defendant may presently lack the capacity to proceed or continue to trial, as defined in Section 22-52-30, or whenever said judge receives notice that the defense of said defendant may proceed on the basis of mental disease or defect as a defense to criminal responsibility; it shall be the duty of the presiding judge to forthwith order that such defendant be committed to the Department of Mental Health and Mental Retardation for examination by one or more mental health professionals appointed by the Commissioner of the Department of Mental Health and Mental Retardation. The Commissioner shall place the defendant under the observation and examination of one or more mental health professionals, each of whom is either a licensed psychologist holding a Psy. D. or Ph.D degree or a licensed physician who specializes in psychiatry. The assigned mental health professional(s) shall examine the defendant with respect to determining the presence of any mental disease or defect which, if determined to be present, would affect the capacity of the defendant to proceed or continue to trial or which would affect the defendant's criminal responsibility at the time of the commission of the crime.

“(b) Such defendant shall be subject to the observation of and examination by the mental health professional(s) appointed by the Commissioner for such length of time as may be necessary to determine the mental condition of the defendant so far as it affects his capacity to proceed or continue to trial or his criminal responsibility.

“(c) As soon as the assigned mental health professional(s) has completed the examination of the defendant, said mental health professional(s) shall make a full written report thereof to the clerk of the court in which the indictment against said defendant is pending,

which report shall be placed on file and be accessible to the court, to the district attorney and to the counsel for the defendant.

“(d) It shall be the duty of the clerk of said court upon receipt of said report to issue an order to the sheriff of the county directing that such defendant be remanded and removed to jail and that the criminal proceedings against him be resumed or he be otherwise legally discharged.

“(e) The expense of removing such defendant to and from the hospitals and of maintaining him while there confined shall be paid in the same manner as provided by law in the case of persons adjudged to be of unsound mind following inquisition in the probate court.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:14 P.M.

Act No. 90-638

H. 596—Reps. Beasley, Headley, Ford, Hammett, Harvey, Fuller, Hill, Cosby, Freeman, Clark (J), Newton (C) and Mathis

### AN ACT

To amend Sections 41-14-2 and 41-14-35, Code of Alabama 1975, relating to state funds generally so as to provide further for the security which is required to be filed with an application for designation as a state depository; to provide further for the collateralization of state money deposited in state depositories, so as to permit state money deposited in state depositories to be secured by mortgage-backed securities of a type approved by the state treasury; to provide that such collateral may be held by any federal reserve bank branch or federal home loan bank serving saving institutions located in Alabama, or by a bank having trust powers; to provide that banks which exercise trust powers may hold the collateral security for deposits for that bank or any other commercial or other depositories; to repeal Section 41-14-6 and Section 41-14-32; to provide for severability of the provisions of this Act; to provide for the repeal or amendment of conflicting law; and to provide for an effective date.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-14-2, Code of Alabama 1975, is hereby amended to read as follows:

“§ 41-14-2. Application for designation as state depository to be filed with state treasurer, etc.; verified statement as to assets and liabilities, capital stock, etc., and deposit of bonds or securities to accompany application.

Before any bank or trust company shall be designated as a state depository, it shall file with the state treasurer an application in writing to be designated as a state depository under the terms of this article.

Such bank or trust company shall accompany such application with a statement, verified by the affidavit of its president or other executive head, setting forth the amount of its paid-in capital stock, the amount of its surplus and undivided profits, its principal place of business, the length of time it has been engaged in business and its assets and liabilities at the time of making application.

Such bank or trust company shall also accompany the application with a deposit of bonds or securities in an amount not less than \$10,000.00 par or face value or with receipts of an authorized holder of such bonds or securities evidencing the fact that bonds or securities in an amount not less than \$10,000.00 par or face value are being held by such authorized holder as security for the deposit of state funds, such bonds or securities to be released only to the lawful holder of such receipts upon presentation of the receipts. A copy of such application and statement shall be filed with the director of finance.

The only bonds or securities which can be accepted as security or for which receipts can be accepted as security for the purposes set forth in this section are the direct obligations of the state of Alabama or the direct obligations of the United States government, the bonds and other securities issued by the Alabama highway finance corporation, the bonds and other securities issued by the Alabama public schools corporation and the bonds to secure the payment of which any rentals or revenues of the state docks department have been pledged prior to January 1, 1948, and other securities of the type which may be used to secure deposits of the state under Section 41-14-35. All securities or receipts so deposited must be accepted at market or par value determined at the discretion of the state treasurer. Such securities or receipts therefor shall be registered in the name of the bank or trust company depositing the same, and the securities or receipts therefor shall be kept and held by the treasurer, and it shall be so stated in said application, as a security to the state for the faithful performance of the duties of such bank or trust company

as a state depository and that the bank or trust company will well and truly account for and pay over any moneys or funds of the state upon the check or order of the treasurer.

The securities money shall be deposited exclusively for the purposes set forth in this section with and held by a trust department of a bank organized under the laws of this state or under the laws of the United States having their principal place of business in this state which may be the same bank as holds the deposit, or a federal reserve bank or branch thereof or a federal home loan bank serving savings institutions located in this state or deposited for safekeeping with any third party bank or trust company organized either under the laws of the state of Alabama or of the United States having their principal place of business in this state, each of which shall be an authorized holder. The authorized holder shall issue a receipt for such securities in accordance with this section."

**Section 2.** Section 41-14-35 of the Code of Alabama, 1975, is hereby amended to read as follows:

"§ 41-14-35. Security for state money deposited in state depositories in demand deposits and time deposits, open account.

(a) All state money deposited in state depositories in demand accounts and time deposits, open account, shall be secured as required by section 5-5A-28 and article 1 of this chapter; provided, however, that for amounts deposited in time deposits, open account, and in demand accounts there may also be accepted as security for said deposits bonds and other securities issued by any agency or instrumentality of the United States of America, any general obligation bonds or securities of any of the various states of the continental United States or any of their instrumentalities which have a rating of 'A' or better by Moody's Investors Rating Services, Inc., New York City, or any successor firm to that corporation, any general obligation bonds or warrants of any county or any municipality of the state of Alabama, warrants or securities of any county secured by a pledge of the special road, bridge and public building tax authorized by article XI, section 215 of the Constitution, bonds or warrants of any county or city board of education secured by a pledge of taxes levied under the authority of constitutional amendment 3 or any other constitutional amendment authorizing the levying of special ad valorem taxes for schools or secured by a pledge of county or city sales taxes, any gasoline tax anticipation warrants secured by a pledge of gasoline tax revenues derived from the gasoline excise tax levied by the state and distributed to counties under section 40-17-74 or any successor statute, electric, natural gas, sewer and water revenue bonds issued by any municipality of the state of Alabama or any board created by or with the consent of any such municipality, and mortgage-backed securities acceptable to the state treasurer in

accordance with subparagraph (d) of this section, which securities may be issued and held in either definitive or book entry form. All securities and other collateral may be held by any federal reserve bank or branch thereof or a federal home loan bank serving savings institutions located in this state, by any bank which operates a trust department, or by such other depository as may be examined, supervised or regulated by the Board of Governors of the Federal Reserve System or the State Banking Department. Banks which exercise trust powers may hold collateral as security for deposits situated in that bank, or in any other bank or other depository.

(b) To be eligible to secure state deposits, revenue or limited obligation bonds or warrants must have a current average annual debt service coverage of at least two times.

(c) No security shall be required for the amount of any deposit or account to the extent said deposit or account is insured by the Federal Deposit Insurance Corporation or any successor Federal insurance corporation or agency.

(d) The state treasurer is authorized to disapprove any security offered or pledged as collateral."

**Section 3.** Section 41-14-6 is hereby repealed.

**Section 4.** Section 41-14-32 is hereby repealed.

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby amended or repealed to the extent of such conflict as necessary to permit the full effectiveness of this Act.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:15 P.M.

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Act No. 90-639

H. 303—Reps. Holley and Zoghby

## AN ACT

Relating to real estate appraisers; providing for the licensing and certification of real estate appraisers, creating and establishing the real estate appraisers board of directors; providing for the membership of such board and for the term of office,

compensation, powers and duties of its members; providing definitions that will apply to the act; providing generally for the conformation of state law with the requirements of Title XI—Real Estate Appraisal Reform Amendments—of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73; providing for the licensing and certification of real estate appraisers and for the renewal, suspension and revocation thereof; providing for the Real Estate Appraisers Board Fund in the state treasury; providing for deposits into and disbursements from such treasury; providing for deposits into and disbursements from such fund; providing for an appropriation from such fund to the Real Estate Appraisers Board for the 1990-91 fiscal year; providing for certain appropriations from the state general fund and the repayment of said funds; prescribing fees that may be set and regulated by such board; prescribing penalties for enforcement of this act; prescribing various procedures and regulations for the administration of the provisions of this act; providing for the register of licensed appraisers to be sent to appropriate federal agencies; and providing for review under the provisions of the Alabama Sunset Law.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known and may be cited as the “Alabama Real Estate Appraisers Act.”

**Section 2.** The following terms as used in this act shall have the following meanings:

(a) “Appraisal” means a written statement that is independently and impartially prepared by an appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(b) “Appraisal Subcommittee; Subcommittee” mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(c) “Appraisal Foundation” means the Appraisal Foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987.

(d) “Appraisal report” means any communication, written or oral, of an appraisal.

(e) “Board” means the State of Alabama Real Estate Appraisers Board established pursuant to the provisions of this act.

(f) “Certified appraisal or certified appraisal report” means an appraisal or appraisal report given or signed and certified as such by a state certified real estate appraiser. When identifying an appraisal or appraisal report as “certified,” the state certified real estate appraiser must indicate which type of certification is held. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this act.

(g) “Executive Director” means the chief administrative employee of the board.

(h) "Federally Related Transaction" means any real estate-related financial transaction which:

- (1) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and
- (2) requires the services of an appraiser.

(i) "Federal Financial Institutions Regulatory Agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(j) "Financial Institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(k) A "licensed real estate appraiser" means an individual who develops and communicates appraisals not claimed to be "certified appraisals" and who holds a current, valid license issued to him or her under the provisions of this act.

(l) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(m) "Real Estate-Related Financial Transaction" means any transaction involving:

- (1) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;
- (2) the refinancing of real property or interests in real property; and

(3) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(n) "Real property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

(o) A "state certified real estate appraiser" means an individual who develops and communicates real estate appraisals and who holds a current, valid certificate issued to him or her for either general or residential real estate under the provisions of this act.

**Section 3.** (a) It shall be unlawful for any person, partnership or corporation, for a fee or other valuable consideration, or with the intention or expectation of receiving or collecting a fee or valuable consideration from another, to do any of the following unless he or she is licensed under this act:

- (1) to be employed to perform an appraisal involving a federally related transaction as defined in this act where the subject property

of the assignment lies within the borders of the State of Alabama. Appraisals that do not involve a federally related transaction do not require a license under this act.

(2) present himself or to be presented as being able to perform an act for which a license is required under this act.

(b) It shall be unlawful for a person, other than a state certified real estate appraiser, to assume or use that title or any title, designation, or abbreviation likely to create the impression of certification as a real estate appraiser by this state. It shall be unlawful for a person who is not certified pursuant to this act to describe or refer to any appraisal or other evaluation of real estate located in this state by the term "certified." Except where required by, or where necessary to fully comply with the provisions of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, as amended, and regulations issued pursuant thereto, an employee of the State of Alabama or any county who has been commissioned by the Alabama Department of Revenue as an Alabama Certified Appraiser, for the purposes of classification only, who is engaged in the performance of official duties as such employee, shall not be subject to the provisions of this act.

(1) A licensed real estate appraiser not certified as a state certified appraiser under this act, shall include the following statement in the "certifications of the appraiser" section of each appraisal or specialized service report: "This assignment was made subject to regulations of the State of Alabama Real Estate Appraisers Board."

(2) A licensed real estate appraiser who is certified as a state certified appraiser under this act, shall include the following statement in the "certifications of the appraiser" section of each appraisal or specialized service report: "This assignment was made subject to regulations of the State of Alabama Real Estate Appraisers Board. The undersigned state certified appraiser has met the requirements of the board that allow this report to be regarded as a "certified appraisal."

(c) Except where required by, or where necessary to fully comply with the provisions of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, as amended, and regulations issued pursuant thereto, this act shall not apply to, or preclude, a person who is not a licensed real estate appraiser or certified as a state certified real estate appraiser from performing real estate market analysis, in that person's capacity as a licensed real estate broker or sales person under Title 34 of the Code of Alabama 1975, and this act shall not apply to a licensed real estate broker or salesperson, who in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended

listing price of real estate, or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate; or any employee, officers, director, partner, or similar person making a valuation, analysis or other appraisal for his or her employer or principal. This act shall not require now or in the future any person who lists property for sale to have an appraisal of that property.

(d) Any person violating any of the provisions of the above sections shall, upon conviction thereof, be guilty of a Class A misdemeanor and shall be punished as prescribed by law.

(e) Notwithstanding anything to the contrary in this Section 3, an individual who is not a state certified or licensed appraiser may assist in the preparation of an appraisal if:

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

**Section 4.** There is hereby established the Alabama Real Estate Appraisers Board. The Board shall consist of nine (9) members, two (2) of whom shall be qualified individuals from the general public and seven (7) of whom shall be real estate appraisers; two of said nine board members shall be of a minority race. The Governor shall appoint the members of the Real Estate Appraisers Board. One appraiser member shall be appointed from each United States congressional district in this state. The term of each board member shall be three years; except that, of the members first appointed, three shall serve three years, three shall serve two years and three shall serve for one year. Notwithstanding the foregoing, and notwithstanding the method of electing a chairperson specified below, if the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, Title XI—Real Estate Appraisal Reform Amendments and any amendment thereto or regulations issued thereunder—prohibit the board from consisting of a majority of real estate appraisers, or require a different method of selecting a chairperson; then the board shall consist of five (5) or more qualified individuals from the general public and four (4) or fewer real estate appraisers, the number of each to be determined by the Governor and to comply with Pub. L. No. 101-73 and regulations thereunder, but not to exceed a total of nine (9) members, and the chairperson shall be selected as required by Pub. L. 101-73 and regulations thereunder. In such event, the existing appraiser members with the shortest remaining terms shall vacate their positions as necessary to achieve the composition of the new board, and if it becomes necessary to vacate a position held by two or more appraiser members with equivalent terms, the Governor shall determine which appraiser member shall

vacate the position. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualifications of their successors and confirmation by the state senate. No person shall serve as a member of the board for more than two consecutive terms. The appointing authority may remove a board member for cause. The public members of the board and spouses of said members shall not be engaged in the practice of real estate appraising. The board shall meet at least once each calendar quarter to conduct its business. Places of future meetings shall be decided by the vote of the members at meetings. Written notice shall be given to each member of the time and place of each meeting of the board at least 10 days before the scheduled date of the meetings. The members of the board shall elect a chairperson from among the members to preside at board meetings. A quorum of the board shall consist of five (5) board members with at least four (4) of such members being appraiser members. Each member of the board shall be entitled to a per diem allowance on board meeting days as authorized by the board, not to exceed the current per diem allowance for state employees. The board shall be independent, separate and distinct from any agency, person, or other state official whose responsibilities include licensing real estate brokers, real estate salesmen, or real estate companies.

**Section 5.** (a) The board shall act by a majority vote of its members to adopt administrative rules and regulations as shall be necessary, from time to time, to carry out the provisions of this act. Such rules and regulations shall be adopted in compliance with the state administrative procedures statutes.

(b) The board shall have the following powers and duties:

(1) to receive application for licensed real estate appraiser and state certification status;

(2) to establish the administrative procedures for processing applications for licensed real estate appraiser and state certification status;

(3) to maintain a registry of the names and addresses of people licensed and certified under this act, and to furnish such list annually to the federal agency designated by Congress to receive it;

(4) to retain records and all application materials submitted to it;

(5) to establish the examination specifications for each category of state certified real estate appraiser, to provide or procure appropriate examination questions and answers, and to establish procedures for grading examinations;



(6) to approve or disapprove applications for license and certification and issue licenses and certificates;

(7) to further define by regulation and with respect to each category of licensed real estate appraiser and state certified real estate appraiser, the continuing education requirements for the renewal of certification that will meet the statutory requirements provided in this act, provided, however, no examinations shall be required on the continuing education;

(8) to review and adopt the standards for the development and communication of real estate appraisals provided in this act, that are generally accepted within the appraisal profession, and to adopt regulations explaining and interpreting the standards;

(9) to establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this act;

(10) to censure, suspend and revoke licenses and certificates pursuant to the disciplinary proceedings provided for in Section 21 of this act;

(11) to hire the Executive Director of the Board that shall administer all the provisions of this act, and may employ, subject to the approval of the board, such other staff members, consultants or service contractors as are necessary to discharge the board's duties and administer this chapter;

(12) to perform such other functions and duties as may be necessary in carrying out the provisions of this act, and to promulgate necessary and appropriate regulations which comply in all respects with requirements of Pub. L. No. 101-73 and any subsequent amendments thereto. Regulations must be promulgated within 90 days following completion of the schedule for prescription and adoption of regulations by the Federal Financial Institutions Regulatory Agencies and the Resolution Trust Corporation; provided, however, that regulations must be promulgated and take effect by (1) July 1, 1991, unless an extension is granted by the Appraisal Subcommittee until December 31, 1991, based on written findings as specified by Section 1119(a)(2) of Pub. L. No. 101-73; or (2) any other date specified by subsequent Act of Congress. All regulations issued by the board that govern real estate appraiser licensure and certification must conform in all respects with the requirements of Pub. L. No. 101-73 and any subsequent amendments thereto and are subject to administrative review under the Administrative Procedure Act and to judicial review by application to the circuit court for Montgomery County;

(13) to include in its regulations educational requirements for licensure and certification of real estate appraisers that comply with this act and in all respects comply with the requirements of Pub. L.

No. 101-73 and any subsequent amendments thereto or regulations issued thereunder;

(c) The members of the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or any disciplinary proceeding concerning, a licensed or certified real estate appraiser pursuant to this act, or alleged appraisals being made without licenses, provided that such action is taken in good faith and in the reasonable belief that the action taken was pursuant to the powers and duties vested in the members of the board under this act.

**Section 6.** (a) The board shall have the authority to set and regulate fees necessary for its operation as a self sustaining board. The initial fees charged by the board shall not exceed the amounts indicated below plus an amount equal to the amount of the annual registry fee required to be transmitted by the board to the Federal Financial Institutions Examination Council on an annual basis in excess of \$25.00:

- i. Licensed appraiser application fee: \$125.00.
- ii. Certified appraiser application, an additional \$125.00.
- iii. Licensed appraiser annual license fee: \$150.00.
- iv. Certified appraiser annual license, an additional \$75.00.
- v. Delinquent license fee for licensed appraisers, \$175.00.
- vi. Delinquent license fee for licensed certified appraisers, an additional \$100.00.

Whenever the words "an additional" are used, it means in addition to the licensed appraiser's fee.

(b) All fees shall be paid into the Alabama Real Estate Appraisers Board Fund for the purpose of carrying out the provisions of this act. Each expense of the board in the amount of \$500.00 and more shall be subject to the approval of a majority of the board.

**Section 7.** (a) Applications for original license, renewal license and examinations shall be made in writing to the board on forms approved by the board.

(b) Appropriate fees, as fixed by the board pursuant to Section 6 of this act, must accompany all applications for original license, renewal license and examination.

(c) At the time of filing an application for license, each applicant shall sign a pledge to comply with the standards set forth in this act and state that he or she understands the types of misconduct

for which disciplinary proceedings may be initiated against a licensed real estate appraiser, as set forth in this act.

(d) A license for licensed real estate appraiser shall be issued only to, and held only by a person who meets the requirements of (1) through (6) below and (7) or (8);

(1) who is at least 19 years old and has a high school diploma or equivalent;

(2) who is a citizen of the United States or is an alien with permanent resident status;

(3) who if a non-resident agrees to sign an affidavit stating the following and in the following terms:

"I, as a non-resident applicant for an appraisal license and as a licensee, agree that the State of Alabama, Real Estate Appraisers Board shall have jurisdiction over me in any and all of my real estate related activities the same as if I were an Alabama resident licensee. I agree to be subject to investigations and disciplinary actions the same as Alabama resident licensees. Further, I agree that civil actions may be commenced against me in any court of competent jurisdiction in any court of the State of Alabama.

"I hereby appoint the Executive Director of the State of Alabama Real Estate Appraisal Board as my agent upon whom all disciplinary, judicial, or other process or legal notices may be served. I agree that such service upon my said agent shall be the same as service upon me and that certified copies of this appointment shall be deemed sufficient evidence thereof and shall be admitted into evidence with the same force and effect as the original might be admitted. I agree that any lawful process against me which is served upon my said agent shall be of the same legal force and validity as if personally served upon me and that this appointment shall continue in effect for as long as I have any liability as an appraiser remaining in the State of Alabama. I understand that my said agent shall, within a reasonable time after service upon him or her, mail a copy of same by certified mail, return receipt requested, to me, at my last known business address.

"I agree that I am bound by all the provisions of the State of Alabama Real Estate Appraisers Act.

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Legal Signature of Applicant"

(4) who is trustworthy and competent to transact the business of an appraiser in a manner that safeguards the interests of the public;

(5) whose application or license has not been rejected or revoked in any state within two years prior to date of application on any grounds other than failure to pass a written examination;

(6) whose membership in any nationally recognized appraisal organization has not been revoked under ethics procedures of said appraisal organization; provided, however, membership in such organization is not required by this act;

(7) who on applying for a license before July 1, 1991, provides evidence to the board of possessing basic appraisal skills by showing to the board that for a period of 24 months prior to application for an appraisal license, has operated within the State of Alabama, as a real estate appraiser or review appraiser or has been employed as a permanent employee, by a company, lending institution or governmental agency located within the state of Alabama, that appraises real estate or reviews real estate appraisals and produces evidence to the Board that he possesses those qualifications listed in 10(a)(1) through 10(a)(7) of this act; or

(8) who on applying for a license after January 1, 1991, provides evidence of having passed within 24 months prior to application, a Standards of Professional Practice Course presented by an approved institution or appraisal organization and who can demonstrate basic appraisal skills by achieving a passing grade on the test requirements of Section 10;

**Section 8.** (a) Applications for original certification, renewal certification and examinations shall be made in writing to the board on forms approved by the board.

(b) Appropriate fees, as fixed by the commission pursuant to Section 6 of this act, must accompany all applications for original certification, renewal certification and examination.

(c) At the time of filing an application for certification, each applicant shall sign a pledge to comply with the standards set forth in this act and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state certified real estate appraiser, as set forth in this act.

**Section 9.** (a) There shall be two classes of voluntary certification for state certified real estate appraisers as individuals:

(1) The state certified residential real estate appraiser classification shall consist of those persons meeting the requirements for certification relating to the appraisal of residential real property of one to four units, and up to twelve units when a net income capitalization analysis is not required by the terms of the assignment.

(2) The state certified general real estate appraiser classification shall consist of those persons meeting the requirements for certification relating to the appraisal of all types of real property.

(b) The application for original certification, renewal certification and examination shall specify the classification of certification being applied for and the certification previously granted.

**Section 10.** (a) An original license as a licensed real estate appraiser shall not be issued to any persons except as provided for in Section 7(d) who has not demonstrated through a written examination process that he or she possesses the following:

(1) Basic knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;

(2) Basic understanding of the principles of land economics, real estate appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing the data in carrying out appraisal disciplines;

(3) Basic understanding of the standards for the development and communication of real estate appraisals as provided in this act;

(4) Basic knowledge of the theories of depreciation, cost estimating, and the mathematics of real estate. appraisal that are appropriate for non-certified appraisal assignments;

(5) Knowledge of other principles and procedures as may be appropriate for non-certified appraisal assignments;

(6) Basic understanding of real estate law; and

(7) Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a licensed real estate appraiser, as set forth in this act.

(b) An original certification as a state certified real estate appraiser shall not be issued to any person who has not demonstrated through a written examination process that he or she possesses the following:

(1) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;

(2) Advanced understanding of the principles of land economics, real estate appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing data in carrying out appraisal disciplines;

(3) Advanced understanding of the standards for the development and communication of real estate appraisals as provided in this act;

(4) Advanced knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certificate applied for;

(5) Advanced knowledge of other principles and procedures as may be appropriate for the respective classifications;

(6) Basic understanding of real estate law;

(7) Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state certified real estate appraiser, as set forth in this act; and

(8) Written examinations must be consistent with the Uniform State Certification Examination.

**Section 11.** (a) General Classification—As a prerequisite to taking the examination for certification as a state certified general real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has a four-year college degree from an accredited college or university, plus 15 classroom hours related to standards of professional practice and the provisions of the act; or, in lieu of a college degree, if an applicant has successfully completed not less than 150 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or college or university approved by the board, plus 15 classroom hours related to standards of professional practice and the provisions of this act, and two years experience out of the last five years as an appraiser, the applicant may take the examination as required by this act.

(b) Residential Classification—As a prerequisite to taking the examination for certification as a state certified residential real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has a college degree from an accredited four-year college or university plus 15 hours related to standards of professional practice; or, in lieu of a college degree, has successfully completed not less than 60 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college or university approved by the board, plus 15 classroom hours related to standards of professional practice and the provisions of this act and two years experience during the last five years as an appraiser, the applicant may take the examination as required by this act.

**Section 12.** (a) An original certificate as a state certified real estate appraiser shall not be issued to any person who does not possess two years of experience in real property appraisal supported

by adequate written reports, file memoranda or other evidence satisfactory to the board.

(b) Each applicant for certification shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the board for examination, a sample of demonstration appraisal reports which the applicant has prepared. Provided, however, at all times the confidential relationship between the appraiser and the client must be maintained.

**Section 13.** (a) The terms of a license or certificate issued under the authority of this act shall be two years from the date of issuance except for the initial year as set out herein. The expiration date shall appear on the license or certificate and no other notice of its expiration need be given to its holder.

(b) License fees payable under Section 6, shall be payable on a yearly basis during the term of license or certification, except that the initial license year shall commence January 1, 1991, through September 30, 1991, and thereafter on a two-year basis payable yearly.

**Section 14.** (a) Every applicant for license or certification under this act, who is not a resident of this state, shall submit with the application an irrevocable consent that service of process to the executive director of the board as provided in Section 7(d)(3) of this act, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed real estate appraiser or state certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal services upon the applicant.

(b) A non-resident of this state who has complied with the provisions of subdivision (a) of this section may obtain a certificate as a state certified real estate appraiser by conforming to all of the provisions of this act relating to state certified real estate appraisers.

(c) The board shall recognize on a temporary basis the certification or license of an appraiser issued by another state for a Federally Related Transaction if (i) the appraiser's business is of a temporary nature, and (ii) the appraiser registers with the board.

**Section 15.** (a)(1) To obtain a renewal license for real estate appraisal or certificate as a state certified real estate appraiser, the holder of a current, valid license or certificate shall make application and pay the prescribed fee to the board not earlier than October 1 and shall be deemed delinquent on November 1. With the application for renewal, the licensed real estate appraiser or state certified real estate appraiser shall present evidence in the form prescribed by the

board of having completed the continuing education requirements for renewal specified in this act.

(2) If the board determines that an applicant has failed to meet the requirements for renewal of license or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the certificate for a period not to exceed six months, upon payment by the applicant of a prescribed fee set by the board for the extension.

(3) If the applicant satisfies the requirements for renewal during the extended term of license or certification, the beginning date of the new renewal license or certificate shall be October 1.

(b) If a person fails to renew a license for real estate appraisal or certificate as a state certified real estate appraiser prior to its expiration or within a period of extension granted by the board pursuant to this act, the person may obtain a renewal license or certificate by satisfying all of the requirements for renewal and by the payment of a late renewal fee as set by the board.

**Section 16.** (a) The principal place of business referred to in this act shall be located in the State of Alabama and each licensed real estate appraiser or state certified real estate appraiser shall advise the board of the address of his or her principal place of business and all other addresses at which he or she is currently engaged in the business of preparing real property appraisal reports.

(b) Whenever a licensed real estate appraiser or state certified real estate appraiser changes a place of business, he or she shall immediately give written notification of the change to the board and apply for an amended license or certificate and pay such fee as prescribed by the board.

(c) Every licensed real estate appraiser or state certified real estate appraiser shall notify the board of his or her current resident address. Residence addresses on file with the board are exempt from disclosure as public records.

**Section 17.** (a) A license or certificate issued under authority of this act shall bear the signatures or facsimile signatures of the members of the board and a license or certificate number assigned by the board.

(b) Each state certified real estate appraiser shall place his or her certificate number adjacent to or immediately below the title "State Certified Residential Real Estate Appraiser" or "State Certified General Real Estate Appraiser" when used in an appraisal report or in a contract or other instrument used by the certificate holder in conducting real property appraisal activities.



**Section 18.** (a) The term "State Certified Real Estate Appraiser" may only be used to refer to individuals who hold the certificate and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the certificate.

(b) No "State Certified Real Estate Appraiser" certificate shall be issued under the provisions of this act to a corporation, partnership, firm or group. This shall not be construed to prevent a state certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice licensed to appraise real estate under the provisions of this act.

(c) Authority to transact business as a licensed real estate appraiser shall be restricted to the person named in such license and shall not inure to the benefit of any other person.

**Section 19.** (a) As a prerequisite to renewal of license to appraise real estate, the licensed real estate appraiser, licensed under this act, shall present evidence satisfactory to the board of having met the continuing education requirements of this act.

(b) As a prerequisite to renewal of certification, state certified real estate appraiser shall present evidence satisfactory to the board of having met the continuing education requirements of this act.

(c) The basic continuing education requirement for renewal of licensed appraiser shall be fifteen hours every two years. Three of said hours shall be Alabama Appraisal Licensing Law and/or standards of professional practice. Certified appraisers must complete twenty hours each license period, at least seven hours of which shall be Alabama Appraisal License Law and/or standards of professional practice.

(d) In lieu of meeting the requirements of subdivision (b) an applicant for renewal may satisfy all or part of the requirements by presenting evidence of the following:

1. Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses approved by the board pursuant to subdivision (b); or

2. Participation other than as a student in educational processes and programs approved by the board which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to, teaching, program development and preparation of textbooks, monographs, articles and other instructional materials.

(e) The board shall adopt regulations for implementation of the provisions of this article to the end of assuring that persons renewing

their licenses or certifications as state certified real estate appraisers have current knowledge of real property appraisal theories, practices and techniques which will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of this act. The regulations shall prescribe the following:

1. Policies and procedures for obtaining board approval of courses of instruction pursuant to subdivision (b);

2. Standards, policies, and procedures to be applied by the board in evaluating applicant's claims of equivalency in accordance with subdivision (c);

3. Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to board approval of courses for credit.

(f) In adopting regulations pursuant to Subsection 1 of paragraph (e), the board may give favorable consideration to courses of instruction, seminars, and other real property appraisal education courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations and utilized by those associations for purposes of designation, or indicating compliance with the continuing education requirements of such organizations.

(g) No amendment or repeal of a regulation adopted by the board pursuant to this section shall operate to deprive a licensed real estate appraiser or a state certified real estate appraiser of credit toward renewal of license or certification for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation which would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

(h) On or after October 1, 1991, a license to appraise real estate or certification as a state certified real estate appraiser that has been revoked as a result of disciplinary action by the board shall not be reinstated unless the applicant presents evidence of completion of the continuing education required by this act. This requirement of evidence of continuing education shall not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for state certified real estate appraiser as a condition to reinstatement of certification.

**Section 20.** (a) The right of any holder under a license to appraise real estate or certificate as a state certified real estate appraiser may be revoked or suspended, or the holder of the license or certificate may be otherwise disciplined by the board in accordance with the provisions of this act, upon any of the grounds set forth in this section. The board may investigate the actions of a licensed

real estate appraiser or state certified real estate appraiser, and may revoke or suspend the rights held by said license or certificate or otherwise fine or discipline a licensed real estate appraiser or state certified real estate appraiser for any of the following acts or omissions:

1. Procuring or attempting to procure a license or certificate pursuant to this act by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license or certification or through any form of fraud or misrepresentation;

2. Failing to meet the minimum qualifications established by this act;

3. Paying money other than provided for by this act to any member or employee of the board to procure a certificate under this act;

4. A conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others; or a conviction involving moral turpitude;

5. An act or omission involving dishonesty, fraud or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person;

6. Violation of any of the standards for the development or communication of real estate appraisals as provided in this section;

7. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

8. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

9. Willfully disregarding or violating any of the provisions of this act or the regulations of the board for the administration and enforcement of the provisions of this act;

10. Accepting an appraisal assignment, as defined in Section 24 of this act, when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusions, or valuation reached, or upon the consequences resulting from the appraisal assignment;

11. Violating the confidential nature of governmental records to which he or she gained access through employment or engagement as an appraiser by a governmental agency; or

12. Entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real property.

13. Presenting to the board, as payment for a fee, or fine, a check that is returned unpaid.

14. Failing to keep for at least three (3) years, a complete record or file of appraisal or specialized assignments regulated under this act.

15. Failing within a reasonable time to provide information requested by the board during an investigation or after a formal complaint has been filed.

16. Failing to pay by required deadlines, fees or fines levied by the board.

(b) In a disciplinary proceeding based upon a civil judgment, the licensed real estate appraiser or state certified real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

**Section 21.** (a) Before suspending or revoking any license or certification, the board shall notify the appraiser in writing of any charges made at least twenty (20) days prior to the date set for the hearing and shall afford him or her an opportunity to be heard in person or by counsel.

(b) The written notice may be served either personally or sent by registered or certified mail to the last known business address of the appraiser.

(c) The board shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state, and to take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this state.

**Section 22.** (a) The hearing on the charges shall be at a time and place prescribed by the board and in accordance with the provisions of this act.

(b) If the board determines that a licensed real estate appraiser or state certified real estate appraiser is guilty of a violation of any of the provisions of this act, it shall prepare a finding of fact and recommend that the appraiser be reprimanded or that his or her license or certification be suspended or revoked. The decision and order of the board shall be final.

(c) Any final decision or order of the board shall be reviewable by a court of appropriate jurisdiction as to the questions of law only. Any application for review made by an aggrieved party shall be filed within thirty (30) days after the final decision or order of the board.

(d) If an application for review of a final decision or order of the board is filed, the case shall be fixed for trial within thirty (30) days from the filing of an answer by the board. If the court finds that the board has regularly pursued its authority and has not acted arbitrarily, it shall confirm the decision or order. Decisions of the board regarding whether to license or certify, to discipline or to de-license or de-certify appraisers shall be final administrative action subject only to appropriate judicial review.

**Section 23.** A licensed real estate appraiser or state certified real estate appraiser must comply with the current Uniform Standards of Professional Appraisal Practice approved by the board.

**Section 24.** (a) A client or employer may retain or employ a licensed real estate appraiser or a state certified real estate appraiser to act as a disinterested third party in rendering an unbiased estimate of value. In either case, the appraisal and the appraisal report must comply with the provisions of this act.

(b) For the purposes of this act, the term "appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by the third parties or the public as acting, as a disinterested third party in rendering an appraisal.

**Section 25.** A licensed real estate appraiser or state certified real estate appraiser may not accept a fee for an appraisal assignment, as defined in Section 24 of this act, that is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion or is contingent upon the opinion or valuation reached, or upon the consequences resulting from the appraisal assignment.

**Section 26.** (a) A licensed real estate appraiser or state certified real estate appraiser shall retain for three (3) years, originals or true copies of all written contracts engaging his or her services for real property appraisal work, and all report and supporting data assembled and formulated by the appraiser in preparing the reports. This three-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within such three-year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the three-year period for the retention of records shall commence upon the date of the final disposition of such litigation.

(b) All records required to be maintained under the provisions of this act shall be made available by the licensed real estate appraiser

and state certified real estate appraiser for inspection and copying by the board on reasonable notice to the appraiser.

**Section 27.** There is hereby established a separate special revenue trust fund in the state treasury to be known as the Alabama Real Estate Appraisers Board Fund. All receipts collected by the board under the provisions of this act are to be deposited in this fund and used only to carry out the provisions of this act. Such receipts shall be disbursed only by warrant of the state comptroller upon the state treasurer, upon itemized vouchers approved by the chairman of the board; provided that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-30 through 41-4-96 and 41-19-1 through 41-19-12 of the Code of Alabama 1975, as amended, and only in amounts as stipulated in the general appropriations bill or other appropriate bills.

**Section 28.** There is hereby appropriated from the state general fund to the Alabama Real Estate Appraisers Board, for the fiscal year ending September 30, 1990, the sum of \$180,000. There is hereby appropriated from the state general fund to the Alabama Real Estate Appraisers Board, for the fiscal year ending September 30, 1991, the sum of \$100,000. The appropriation herein shall be in addition to any and all other funds heretofore or hereinafter appropriated to the Alabama Real Estate Appraisers Board. All sums paid to the Alabama Real Estate Appraisers Board from the state general fund pursuant to this section shall be repaid to the state general fund by the Alabama Real Estate Appraisers Board over a five-year period commencing not later than the 1992-93 fiscal year.

**Section 29.** There is hereby appropriated from the Alabama Real Estate Appraisers Board Fund to the Alabama Real Estate Appraisers Board, for the fiscal year ending September 30, 1991, the sum of \$180,000. The appropriation herein shall be in addition to any and all other funds heretofore or hereinafter appropriated to the Alabama Real Estate Appraisers Board.

**Section 30.** The Alabama Real Estate Appraisers Board shall be an enumerated board pursuant to Sections 41-20-1 through 41-20-16, Code of Alabama 1975, and shall be reviewed at the same time as the Alabama Real Estate Commission.

**Section 31.** It is the intent of the legislature of the State of Alabama that this act fully comply with the provisions of the Federal Financial Institution Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, any amendments thereto and regulations issued thereunder. The Alabama Real Estate Appraisers Board shall not grant or deny a license as a "licensed real estate appraiser" or a

“state certified real estate appraiser” by virtue of membership in or lack of membership in any particular appraisal organization.

**Section 32.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 33.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 34.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-640

H. 614—Reps. White (L), Grouby, Newman,  
Headley and Hogan

### AN ACT

To amend Section 17-4-156 of the Code of Alabama 1975, as last amended, relating to the session days for certain boards of registrars, so as to provide further for the session days for the board of registrars for Autauga, Bibb, Chilton, Lamar, Tallapoosa and Walker counties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 17-4-156, Code of Alabama 1975, is hereby amended to read as follows:

“§17-4-156.

“(a) Each member of the board of registrars in the counties of Blount, Chambers, Cherokee, Clarke, Clay, Cleburne, Conecuh, Coosa, Crenshaw, Dallas, Escambia, Geneva, Hale, Henry, Lawrence, Limestone, Lowndes, Marengo, Perry, Sumter, Talladega, Washington and Wilcox may meet a maximum of 120 working days each fiscal year beginning October 1, 1984, and thereafter; each member of the board of registrars in the counties of Barbour, Butler, Covington, Fayette, Greene, Lauderdale, Lee, Marion, Pickens, Pike, Randolph, St. Clair and Winston may meet a maximum of 168 working days each fiscal year beginning October 1, 1984, and thereafter, except in the counties of Lee and Pike each board of registrars may meet up to an additional 30 session days each fiscal year, at the discretion of the chairman of the county commission, beginning October 1, 1985, and thereafter and such days shall be paid from the respective county funds; each member of the board of registrars in the counties of Dale, Franklin,

Houston, Marshall, Bullock, Macon and Tuscaloosa may meet a maximum of 216 working days each fiscal year beginning October 1, 1984, and thereafter; and each member of the boards of registrars in the counties of DeKalb, Elmore, Jackson, Russell and Shelby may meet a maximum of 167 working days each fiscal year beginning October 1, 1984, and thereafter.

“(b) In the counties of Choctaw, Coffee, Colbert, Cullman and Monroe, each member of the board of registrars may meet a maximum of 199 working days each fiscal year beginning October 1, 1984, and thereafter.

“(c) Each member of the board of registrars of Etowah, Autauga, Bibb and Tallapoosa counties may meet a maximum of 187 working days each fiscal year. Each member of the board of registrars of Walker county may meet a maximum of 180 days each fiscal year and each member of the board of registrars of Lamar county may meet a maximum of 140 days each fiscal year.

“(d) Each member of the board of registrars in the counties of Baldwin, Calhoun, Chilton, Madison, Mobile, Montgomery and Morgan are authorized to meet not more than five days each week for the purpose of carrying out their official duties. Jefferson county, which is now operating under the provisions of local bills, shall be exempted from the provisions of this section. Provided, however, that where the words ‘each year’ are used in such local acts such words shall mean ‘each fiscal year beginning October 1, 1984, and thereafter.’

“(e) The actual number of working days to be used as session days shall be determined by a quorum of the board according to the needs of the county.

“(f) As many as 25 of the allotted working days may be used for special registration sessions (i.e., those sessions held away from the courthouse in the several precincts of the county or sessions held on Saturday or between the hours of 5:00 P.M. and 9:00 P.M.) which special sessions are hereby authorized. Notice of any special session scheduled by the board must be given at least 10 days prior to the session by (1) bills posted at three or more public places in each election precinct affected, if the session involves precinct visits, and (2) advertisement once a week for two successive weeks in a newspaper published in the county or by radio or television announcements on a local station, or both.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.



Act No. 90-641

H. 917—Rep. Venable

## AN ACT

Relating to Coosa County; authorizing the additional fee on civil and criminal cases in the county with the proceeds to be used for the operation and maintenance of the county jail and providing for the levy of such fee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any court costs and fees now or hereafter authorized, and notwithstanding any other provision of the Constitution, including without limitations Sections 96, 104 and 105 of the Constitution of Alabama of 1901, as amended, there shall be a \$10.00 fee assessed on all civil and criminal cases filed in the circuit court, district court or any municipal court in Coosa County. All funds generated from such fee shall be paid into the general fund of Coosa County and shall be used exclusively for the operation and maintenance of the county jail.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

Act No. 90-642

H. 812—Rep. Lindsey

## AN ACT

Relating to Cleburne County; to increase court costs in all civil and criminal cases and provide that the proceeds be placed in the county general fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Cleburne County there shall be collected an additional court cost of \$10.00 in each criminal or civil case filed in any court in the county. It shall be collected as are other court costs and shall be paid into the county general fund.

**Section 2.** The provisions of this act shall become effective on the first day of the month next following the date this act becomes law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-643

H. 821—Rep. Lindsey

AN ACT

Relating to Cleburne County; to place an additional recording fee on each real property instrument and each personal property instrument filed for record in the probate office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Cleburne County there is hereby levied an additional recording fee of \$3.00 on each real property instrument and each personal property instrument filed for record in the probate office. Said fee shall be in addition to all other fees provided for by law and shall be paid into the county general fund.

**Section 2.** The provisions of this act shall become effective on the first day of the month next following the date this act becomes law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-644

H. 847—Rep. Laird

AN ACT

Relating to Randolph County; authorizing the county commission to levy an additional sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4, Code of Alabama 1975, as amended, providing for the collection, distribution and use of the proceeds of such tax; providing for the enforcement of this act by the state department of revenue; prescribing penalties and fixing punishment for violation of this act; providing for the implementation and expiration of this act; and providing for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Randolph County.

**Section 2.** All words, terms, and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975,

as amended, providing for the levy of a state sales tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“Month” means the calendar month;

“County” means Randolph County.

**Section 3.** The county commission is hereby authorized to levy and impose, in addition to all other taxes, including municipal gross receipts license taxes now imposed by law, a special county one cent privilege license tax paralleling the state sales tax, such privilege license tax to be determined by the application of rates against gross sales or gross receipts, as the case may be, and within specified areas.

There are exempted, however, from the provisions of this section and from the computation of the amount of the additional tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

**Section 4.** All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and in the same manner as state sales taxes are paid. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the

state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Randolph County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Randolph County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax imposed by this act shall constitute a debt due Randolph County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to enforcement of liens for license taxes due this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Randolph County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it for Randolph County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of rules

and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Randolph County for collecting the special county tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Randolph County Commission, but such charge shall not, in any event, exceed five percent of the total amount of the special county tax collected in said county under this act. Such charge for collecting such special tax may be deducted each month from the gross revenues from such special tax before certification of the amount of the proceeds thereof due Randolph County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Randolph County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Randolph County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Randolph County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. He shall then deliver to the Randolph County Commission the balance remaining. The county commission shall distribute five percent (5%) of said balance to the Southern Union State Junior College, Wadley Campus to be used exclusively for student oriented programs. All revenues remaining from the taxes herein levied shall be distributed as follows:

(a) Fifty percent (50%) shall be divided on a per pupil basis between the county board of education and the City of Roanoke

board of education to be used for the purpose of renovation of buildings, building classrooms and meeting performance based accreditation standards. These funds shall not be used for the purpose of consolidating or closing high school or elementary school sites.

(b) Fifty percent (50%) shall be distributed to the county commission for the purpose of landfill needs of the county to comply with regulations of the Environment Protection Agency and to repair or purchase equipment for construction and for routine maintenance on the county road system.

**Section 9.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Randolph County who vote thereon at a referendum held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on a date to be determined by the county commission. Notice of the election shall be given by the judge of probate of Randolph County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to levy a one cent sales tax, to be distributed to the boards of education to be used for certain educational purposes and to the county commission for certain operational purposes?” Yes ( ) No ( ).

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Randolph County shall certify the results of the election to the Secretary of State.

**Section 10.** The provisions of this act shall expire and the tax herein authorized to be levied shall expire January 1, 2000.

**Section 11.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

Act No. 90-645

H. 916—Rep. Venable

## AN ACT

Relating to Coosa County; authorizing the Coosa County Commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county, and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby imposed upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Coosa County a county privilege, license or excise tax in the following amounts:

(a) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

(b) Two cents (\$0.02) for each cigar of any description made of tobacco or any substitute therefor, with the exception of the cigarette sized or near cigarette sized cigars which may be taxed at the same rate as cigarettes under subsection (a) above.

(c) Two cents (\$0.02) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(d) Three cents (\$0.03) for each sack, plug, package or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subsection (c) of this section.

(e) Three cents (\$0.03) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor. Said privilege, license or excise tax shall be in addition to all other federal, state or local taxes heretofore imposed by law. Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

(f) Fifteen cents (\$0.15) for each package of tobacco paper, both gummed and ungummed.

**Section 2.** (a) Upon adoption of a resolution by the Coosa County Commission, every person, firm, corporation, club, or association that sells, stores or receives for the purpose in Coosa County, any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products.

**Section 3.** It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Coosa County in the business for which the tax is hereby levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided or to refund or offer to refund all or any part of the amount collected or absorb or advertise directly or indirectly the absorption of the tax or any portion thereof. Any person, firm, corporation, club or association violating any of the provisions of this section shall be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail for not more than sixty days or by both such fine and imprisonment. Each act in violation of this section shall constitute a separate offense.

**Section 4.** The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The State Department of Revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax.

**Section 5.** The State Department of Revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

**Section 6.** All laws, rules and regulations of the Department of Revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama



1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully set out herein.

**Section 7.** The proceeds from the tax hereby authorized less the actual cost of collection not to exceed five per centum (5%) shall be paid by the State Department of Revenue to the Coosa County commission to be distributed as follows:

(1) \$7,500.00 per year shall be distributed to the Coosa County Health Department; and

(2) The remaining proceeds shall be distributed equally to certified volunteer fire departments.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** This act shall become effective the first day of the third month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 6:18 P.M.

Act No. 90-646

H. 160—Reps. Haynes, Johnson (RG),  
Carothers, Mathis and Payne

### AN ACT

To amend Sections 12-17-142 and 12-17-143, Code of Alabama 1975, relating to the terms of office and compensation for Supernumerary Clerks and Registers and contributions to the clerks' and registers' supernumerary fund, so as to further provide for the compensation payable from the state treasury and to increase the amount of contribution to the supernumerary fund and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 12-17-142 and 12-17-143, Code of Alabama 1975, are hereby amended to read as follows:

“§12-17-142.

“(a) Every such supernumerary official shall serve for life and shall receive an annual salary in an amount equal to 75% of the state salary payable to a circuit clerk on the date such circuit clerk or register becomes a supernumerary official, payable in equal installments on a twice per month basis.

“(b) In the event of the death of any such supernumerary official, circuit clerk or register who, at the time of his or her death, was serving as or was otherwise eligible to serve as such supernumerary official, his or her spouse shall receive benefits from the clerks and registers supernumerary fund in the state treasury in an amount equivalent to three percent of the salary payable from the state treasury, as prescribed by law for the position of circuit clerk, for each year of service not to exceed 30 percent of such salary, payable monthly for the remainder of such spouse’s life or until he or she remarries.”

“§12-17-143.

“Officials electing to come under the provisions of this article shall contribute to the clerks’ and registers’ supernumerary fund of the state of Alabama, which is hereby created, in amounts to be determined as follows:

“(1) Circuit clerks shall contribute six percent of the total per annum state compensation for the circuit clerk in the county of residence of said clerk.

“(2) Circuit registers shall contribute six percent of the total per annum state compensation for the circuit register in the county of residence of said register.

“(3) The clerks’ and registers’ supernumerary fund is hereby placed under the management and control of the employees’ retirement system of Alabama. The secretary-treasurer of the employees’ retirement system of Alabama is charged with the responsibility for investment of the fund and for the development and maintenance of administrative procedures involving member records, benefits, investment of funds, and other administrative functions necessary to the operation of the clerks’ and registers’ supernumerary fund.”

**Section 2.** The provisions of this act shall apply only to those circuit clerks and registers who are in active service on or after the effective date of this act.

**Section 3.** Notwithstanding the provisions of this act, such supernumerary officials shall be entitled to all such benefits as are presently being provided to such officials. However, in the event the spouse of any such supernumerary or qualifying official shall receive compensation under the provisions of subsection (b) of section 12-17-142, said spouse or named beneficiary of any such official shall not be entitled to any refund under the provisions of section 12-17-147. Furthermore, such supernumerary officials covered under the provisions of this act shall not be eligible for longevity compensation.

**Section 4.** The provisions of this act are severable. If any portion of this act shall be declared invalid by a court of competent

jurisdiction, such invalidity shall not affect the remaining portions of this act.

**Section 5.** This act shall become effective on October 1, 1990, and upon approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-647

H. 877—Rep. Harper

### AN ACT

To provide for a transfer to the State General Fund from the State Employees Liability Insurance Fund for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby transferred from the State Employees Liability Insurance Fund to the State General Fund the sum of six million dollars (\$6,000,000).

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of law which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-648

H. 751—Rep. Harper

### AN ACT

To make appropriations to the following public entities in Alabama for general public educational purposes for the fiscal year ending September 30, 1991. Said educational purposes shall include but not be limited to capital improvements, library acquisitions, equipment purchases, transportation, renovations and operations and maintenance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated the sum of four million one hundred eighteen thousand seven hundred forty-six dollars (\$4,118,746) from the Alabama Special Educational Trust Fund to the following public educational institutions for the fiscal year ending September 30, 1991:

Abrams Primary School—Bessemer City Board of Education	10,000
Adams Middle School—Mobile County Board of Education	5,000
Adamsville Elementary—Jefferson County Board of Education	1,500
Alba Elementary School—Mobile County Board of Education	5,000
Alba High School—Mobile County Board of Education	10,000
Alberta Elementary School—Wilcox County Board of Education	500
Alex City Junior High School—Alexander City Board of Education	2,000
<del>Alliance Elementary—Jefferson</del> County Board of Education	<del>2,000</del>
Alternative School—Autauga County Board of Education—For Furniture	1,000
Andalusia City Board of Education	12,000
Anniston City Board of Education	36,000
Anniston High—Anniston City Board of Education	6,000
Anniston Middle School—Anniston City Board of Education	6,000
Appalachian High School—Blount County Board of Education	3,500
Arab City Board of Education	16,000
Area Vocational Center—Autauga County Board of Education— For a Flagpole	2,500
Arrington Middle School—Birmingham City Board of Education	2,000

Arrington Middle School—Music Enrichment Program—Birmingham City Board of Education	10,000
Arthur Elementary School—Birmingham City Board of Education	1,000
Ashford Elementary—Houston County Board of Education	5,000
Ashford High—Houston County Board of Education	5,000
Auburn City Board of Education	10,000
Augusta Evans Special School— Mobile County Board of Education	2,500
Austin Elementary School—Mobile County Board of Education	5,000
Autaugaville Elementary School— Autauga County Board of Education— For Computers	2,500
Autaugaville High School—Autauga County Board of Education—For Band Uniforms	3,000
Avalon Middle School—Muscle Shoals City Board of Education	2,000
Avondale Elementary School—Birmingham City Board of Education	2,500
Azalea Road Middle School—Mobile County Board of Education	5,000
A.L. Johnson High—Marengo County Board of Education	3,000
A.G. Gaston Elementary School— Birmingham City Board of Education	10,000
A.H. Parker High School—Birmingham City Board of Education	3,500
Baileyton Junior High School—Cullman County Board of Education	1,000
Baker Elementary—Birmingham City Board of Education	1,500
Baker High School—Mobile County Board of Education	16,000

Baldwin County Board of Education— Capital Outlay	30,000
Baldwin County Board of Education— For Capital Improvement/Classroom Materials	30,000
Bankhead Middle School—Walker County Board of Education	2,500
Barbour County Board of Education	25,000
Bear Elementary School—Montgomery County Board of Education	2,000
Belsaw—Mt. Vernon Elementary Middle School—Mobile County Board of Education	6,000
Benjamin Russell High School— Alexander City Board of Education	2,000
Bessemer City Board of Education	5,000
Bessemer State Technical College— Endowment Trust	5,000
Bessie C. Fonville Elementary—Mobile County Board of Education	5,000
Beverlye Middle School—Dothan City Board of Education	3,000
Bibb County Board of Education	5,000
Bibb County Board of Education	5,000
Big Spring Lake Elementary School— Albertville City Board of Education	2,000
Billingsley School—Autauga County Board of Education	3,000
Birdine Elementary—Green County Board of Education	1,750
Birmingham City Board of Education	30,000
Birmingham Community Schools—Birmingham City Board of Education	8,500
Blossomwood Elementary School— Huntsville City Board of Education	3,600
Blount High School—Mobile County Board of Education	2,000

Blount High School—Mobile County Board of Education	4,000
Boaz Elementary School—Marshall County Board of Education	2,000
Bob Jones High—Madison County Board of Education	3,000
Booker T. Washington Middle School— Mobile County Board of Education	5,000
Boykin Elementary School—Wilcox County Board of Education	500
Bragg Junior High School—Jefferson County Board of Education	3,750
Brazier Elementary—Mobile County Board of Education	3,000
Brewbaker Intermediate School— Montgomery County Board of Education	2,730
Brewbaker Junior High School—Montgomery County Board of Education	2,727
Brewbaker Primary School—Montgomery County Board of Education	2,727
Brewer School—Cullman County Board of Education	3,666
Brewton City Board of Education	10,000
Brighton Elementary School— Jefferson County Board of Education	8,000
Brighton High School—Jefferson County Board of Education	8,000
Buckhorn High School—Madison County Board of Education	2,000
Bullock County Board of Education	3,000
Bullock County High—Bullock County Board of Education	2,303
Bullock County Area Vocational Center— Bullock County Board of Education	1,000
Bush Middle School—Birmingham City Board of Education	1,500
Butler County Board of Education	15,000

Butler Elementary School—Choctaw County Board of Education	1,750
Birmingham Community Education Program— Birmingham City Board of Education	5,000
Cahaba Heights Elementary School Jefferson County Board of Education	10,000
Calcedaever Elementary—Mobile County Board of Education	6,000
Calhoun County Board of Education	6,000
Calhoun County Board of Education	18,750
Calhoun High School—Lowndes County Board of Education	1,000
Callaway Elementary School— Birmingham City Board of Education	3,000
Camden Academy Middle School—Wilcox County Board of Education	500
Camp Hill School—Tallapoosa County Board of Education	2,000
Capitol Heights Junior High School— <del>Montgomery County Board of Education</del>	<del>3,500</del>
Carbon Hill Elementary—Carbon Hill City Board of Education	2,500
Carbon Hill High School—Carbon Hill City Board of Education	2,500
Carlisle Elementary—Etowah County Board of Education	2,000
Carrie A. Tuggle Elementary School— Birmingham City Board of Education	1,375
Carver High Community School— Birmingham City Board of Education	1,375
Carver High School—Birmingham City Board of Education	3,000
Carver Junior High—Greene County Board of Education	1,750
Carver Middle School—Dothan City Board of Education	3,000



Castlen Elementary School—Mobile County Board of Education	5,000
Catoma Elementary School—Montgomery County Board of Education	2,000
Center Point Elementary School—Jefferson County Board of Education	1,250
Center Street Elementary School—Birmingham City Board of Education	3,500
Central High School—Lowndes County Board of Education	1,000
Central Junior High School—Madison County Board of Education	2,000
Central Park Elementary School—Birmingham City Board of Education	1,000
Chaffee Elementary—Huntsville City Board of Education	2,000
Chalkville Elementary School—Jefferson County Board of Education	1,250
Challenger Elementary—Huntsville City Board of Education	2,000
Challenger Middle School—Huntsville City Board of Education	2,000
Chambers County Area Vocational Center—Chambers County Board of Education	10,000
Chambers County High School—Chambers County Board of Education	10,000
Chambers County Literacy Hot Line—Chambers County Board of Education	5,000
Charles A. Brown Elementary—Birmingham City Board of Education	2,000
Charles Henderson High—Troy City Board of Education	2,500
Charles Henderson Junior High—Troy City Board of Education	2,500
Chattahoochee Valley Community College	7,500
Chauncey Sparks State Technical College	25,000
Cherokee County Board of Education	25,000

Chastang Middle School—Mobile County Board of Education	4,000
Chastang Middle School—Mobile County Board of Education	5,000
Chickasaw Elementary—Mobile County Board of Education	6,000
Chisholm Elementary—Macon County Board of Education	1,350
Chilton County Board of Education	25,000
Choctaw County High School—Choctaw County Board of Education	2,500
Citronelle High School—Mobile County Board of Education	1,500
CITY Program in Etowah County—Department of Youth Services School District	2,000
Clark Middle School—Mobile County Board of Education	5,000
Clarke County Board of Education—To Be Used For Maintenance	16,185
Clay Elementary School—Jefferson County Board of Education	1,250
Cleburne County Board of Education	20,000
Cleveland School—Blount County Board of Education	3,500
Cloverdale Elementary—Dothan City Board of Education	3,000
Cloverdale Junior High School—Montgomery County Board of Education	2,000
Clyde E. Kirby Middle School—Birmingham City Board of Education	1,375
Colbert County High School—Colbert County Board of Education	2,000
Columbia Elementary—Houston County Board of Education	3,000
Concord Elementary—Jefferson County Board of Education	2,000
Conecuh County Board of Education	25,000

Constantine Elementary—Anniston City Board of Education	6,000
Continuous Learning Center—Mobile County Board of Education	2,000
Cooper Elementary—Anniston City Board of Education	6,000
Coosa County Board of Education	7,500
Cordova Elementary—Walker County Board of Education	2,500
Cordova High School—Walker County Board of Education	2,500
Corley Elementary School—Marshall County Board of Education	2,000
Cotaco Junior High School—Morgan County Board of Education	4,000
Cotaco School—Morgan County Board of Education	1,000
Cottonwood Elementary—Houston County Board of Education	3,000
Councill Elementary School—Birmingham City Board of Education	1,500
Courtland Elementary—Lawrence County Board of Education	1,180
Courtland High—Lawrence County Board of Education	1,000
Covington County Board of Education	12,000
Crenshaw County Board of Education	10,000
Crestline Elementary School—Mountain Brook City Board of Education	2,500
Crichton Elementary—Mobile County Board of Education	2,500
Crichton Elementary School—Mobile County Board of Education	2,000
Crossville Elementary School—DeKalb County Board of Education	6,000
Crump Elementary School—Montgomery County Board of Education	2,727

Cullman City Board of Education	30,000
Curry Elementary School—Birmingham City Board of Education	5,000
Curry Elementary—Walker County Board of Education	2,500
Curry High School—Walker County Board of Education	2,500
Curry Middle School—Walker County Board of Education	2,500
C.E. Hanna Elementary—Oxford City Board of Education	5,000
Dadeville Elementary School—Tallapoosa County Board of Education	2,000
Dadeville High School—Tallapoosa County Board of Education	2,000
Dallas County Board of Education	7,000
Dallas County Board of Education	5,000
Dalraida Elementary School—Montgomery County Board of Education	3,000
<del>Daniel Payne Middle School—Birmingham</del> City Board of Education	<del>1,500</del>
Dannelly Elementary School—Montgomery County Board of Education	2,000
Danville School—Morgan County Board of Education	3,455
Dauphin Island Elementary School Mobile County Board of Education	5,000
Davidson High School—Mobile County Board of Education	5,000
Davis Middle School—Bessemer City Board of Education	4,000
Decatur City Board of Education	30,000
DeKalb County Board of Education	70,000
DeKalb County Board of Education	5,000
Demopolis City Board of Education	3,000

Disque Middle School—Gadsden City Board of Education	1,000
Dixon Elementary—Mobile County Board of Education	5,000
Dodge Elementary School—Mobile County Board of Education	4,500
Donald Elementary School—Fairfield City Board of Education	8,000
Dora High School—Walker County Board of Education	1,875
Dothan Area Vocational Center— Dothan City Board of Education	3,000
Dothan City Board of Education	5,000
Dothan High—Dothan City Board of Education	3,000
Douglas Elementary School—Marshall County Board of Education	2,000
Dozier Elementary School—Montgomery County Board of Education	3,000
Duck Springs Elementary—Etowah County Board of Education	1,500
Dunbar Elementary School—Montgomery County Board of Education	2,727
Dupuy Elementary School—Birmingham City Board of Education	3,000
D.C. Wolf High—Macon County Board of Education	2,575
East Choctaw Junior High—Choctaw County Board of Education	1,750
East Lawrence Elementary—Lawrence County Board of Education—For School Library	3,560
East Lawrence High—Lawrence County Board of Education—For School Library	2,900
Eastwood Elementary School—Decatur City Board of Education	4,000

Eatman Elementary School—Greene County Board of Education	1,750
Eight Mile Elementary—Mobile County Board of Education	3,000
Eldridge Junior High School—Walker County Board of Education	2,500
Elmore County Board of Education	15,000
Elyton Elementary School—Birmingham City Board of Education	3,500
Emma Sansom High—Gadsden City Board of Education	1,000
Empire Junior High School—Walker County Board of Education	1,875
Ensley High School—Birmingham City Board of Education	1,500
Environmental Study Center—Mobile County Board of Education	10,500
Erwin Elementary School—Jefferson County Board of Education	1,250
Erwin High School—Jefferson County Board of Education	2,500
Erwin Junior High School—Jefferson County Board of Education	1,500
Escambia County Board of Education	10,000
Etowah County Board of Education—For Stringed Instrument Program	4,000
Eufaula City Board of Education	25,000
Eutaw High School—Greene County Board of Education	2,500
Eva School—Morgan County Board of Education	1,000
Evans Elementary School—Albertville City Board of Education	2,000
Fairfield City Board of Education	6,000
Fairfield City Board of Education	5,000
Fairfield City Board of Education	5,000

Fairfield High School—Fairfield City Board of Education	9,000
Fairview School—Cullman County Board of Education	3,666
Falkville—Morgan County Board of Education	3,666
Farley Elementary—Huntsville City Board of Education	2,000
Farmstead Junior High School— Walker County Board of Education	1,875
Fayette County Board of Education	45,000
Flint Elementary School—Morgan County Board of Education	4,000
Floral City Board of Education	4,000
Florence City Board of Education— For Supplies	20,000
Flowers Elementary School—Montgomery County Board of Education	3,000
Floyd Elementary and Junior High School—Montgomery County Board of Education	2,000
Floyd Elementary—Gadsden City Board of Education	1,000
Fonde Elementary School—Mobile County Board of Education	5,000
Forest Avenue Elementary School— Montgomery County Board of Education	2,000
Forest Hill Elementary School— Mobile County Board of Education	5,000
Forest Hills Middle School—Fairfield City Board of Education	11,000
Forrest Middle School—Gadsden City Board of Education	1,000
Fort Payne City Board of Education	20,000
Franklin County Board of Education	14,000
Ft. Deposit Elementary School—Lowndes County Board of Education	500

Ft. Deposit Middle School—Lowndes County Board of Education	750
Fultondale Elementary School—Jefferson County Board of Education	3,750
Fultondale High School—Jefferson County Board of Education	3,750
Gadsden City Board of Education—For Stringed Instrument Program	4,000
Gadsden High—Gadsden City Board of Education	1,000
Gardendale Elementary School—Jefferson County Board of Education	3,750
Gardendale High School—Jefferson County Board of Education	3,750
Gate City Elementary—Birmingham City Board of Education	5,000
Geneva City Board of Education	25,000
Geneva County Board of Education	50,000
George Hall Elementary School—Mobile County Board of Education	2,000
Georgia Washington Junior High School— Montgomery County Board of Education	2,727
Geraldine Elementary School—DeKalb County Board of Education	6,000
Gibson Elementary—Birmingham City Board of Education	2,500
Gilbertown Junior High—Choctaw County Board of Education	3,000
Gilmore—Bell Vocational High— Jefferson County Board of Education	1,500
Girard Elementary—Dothan City Board of Education	3,000
Girard Middle School—Dothan City Board of Education	3,000
Glen Iris Community Middle School— Birmingham City Board of Education	3,500



Glendale Elementary—Mobile County Board of Education	5,000
Glen Oaks Elementary—Fairfield City Board of Education	3,000
Golden Springs Elementary—Anniston City Board of Education	6,000
Goodwyn Junior High School— Montgomery County Board of Education	3,500
Grandview Elementary—Dothan City Board of Education	3,000
Grantswood Community School— Jefferson County Board of Education	2,500
Grantswood Elementary School— Jefferson County Board of Education	5,000
Green Acres Elementary School— Birmingham City Board of Education	5,000
Gresham Middle School—Jefferson County Board of Education	5,000
Griggs Elementary School—Mobile County Board of Education	4,500
Grissom High School—Huntsville City Board of Education—For Miscellaneous Needs	4,000
Grissom High—Huntsville City Board of Education—For Debate Team Travel	2,000
Grissom High—Huntsville City Board of Education	6,000
Grove Oak Elementary and Junior High— DeKalb County Board of Education	6,000
Guin Elementary School—Marion County Board of Education	9,000
Guntersville City Board of Education	16,000
Gurley High School—Madison County Board of Education	2,000
G.C. Wallace Community College—Selma	5,000
Hale County Board of Education	15,000

Haleyville City Board of Education	3,000
Hamilton Elementary—Mobile County Board of Education	6,000
Hard Elementary School—Bessemer City Board of Education	11,000
Harding Elementary School—Chambers County Board of Education	10,000
Harmon Junior High—Houston County Board of Education	2,500
Hartselle City Board of Education	10,000
Harvest Middle School—Madison County Board of Education	3,000
Hatton Elementary School—Colbert County Board of Education	2,000
Hatton Elementary—Lawrence County Board of Education—For School Library	1,680
Hatton High School—Lawrence County Board of Education—For School Library	1,630
Hayden School—Blount County Board of Education	3,500
Hayneville Middle School—Lowndes County Board of Education	750
Hazel Green High School—Madison County Board of Education	2,000
Hazlewood Elementary—Lawrence County Board of Education	1,770
Hazlewood High—Lawrence County Board of Education	1,590
Head Elementary School—Montgomery County Board of Education	3,000
Heard Elementary—Dothan City Board of Education	3,000
Hemphill Elementary School—Birmingham City Board of Education	2,000
Henry County Board of Education	20,000

Henry J. Oliver Elementary—Birmingham City Board of Education	5,000
Hewitt Elementary School—Jefferson County Board of Education	1,000
Hewitt Elementary School—Jefferson County Board of Education	1,250
Hewitt High School—Jefferson County Board of Education	2,500
Hewitt High School—Jefferson County Board of Education	1,000
Hewitt Junior High School—Jefferson County Board of Education	1,000
Hewitt Junior High School—Jefferson County Board of Education	1,500
Hewitt Middle School—Jefferson County Board of Education	1,000
Hewitt Middle School—Jefferson County Board of Education	1,250
Highland Avenue Elementary School— Montgomery County Board of Education	2,000
Highland Gardens Elementary School— Montgomery County Board of Education	2,000
Highland Park Elementary—Muscle Shoals City Board of Education	2,000
Highlands Elementary—Dothan City Board of Education	3,000
Highlands Elementary—Etowah County Board of Education	1,000
Highlands Elementary—Huntsville City Board of Education	3,000
Hill Elementary School—Birmingham City Board of Education	3,500
Hillsdale Middle School—Mobile County Board of Education	12,750
Hobbs Elementary School—Wilcox County Board of Education	500
Hollingers Island School—Mobile County Board of Education	4,500

Holloway Elementary—Mobile County Board of Education	5,000
Holly Pond School—Cullman County Board of Education	3,666
Homewood City Board of Education	60,000
Honeysuckle Middle School—Dothan City Board of Education	3,000
Hoover City Board of Education	30,000
Hoover City Board of Education	20,000
Houston County Area Vocational Center— Houston County Board of Education	3,000
Houston County Board of Education	25,000
Houston County Board of Education	5,000
Hudson Elementary School—Birmingham City Board of Education	3,000
Hueytown Elementary—Jefferson County Board of Education	5,500
Hueytown High—Jefferson County Board of Education	3,000
Huffman High School—Birmingham City Board of Education	1,000
Huntsville City Board of Education	45,000
Huntsville High School—Huntsville City Board of Education	6,000
Huntsville Middle School—Huntsville City Board of Education	3,600
Indian Springs Elementary—Mobile County Board of Education	3,000
Inglennook Elementary School—Birmingham City Board of Education	3,000
Irondale Junior High School—Jefferson County Board of Education	2,500
Ivalee Elementary—Etowah County Board of Education	1,500
Jackson County Board of Education	30,000

Jackson Elementary School—Birmingham City Board of Education	2,000
Jacksonville City Board of Education	6,375
Jackson-Olin High School—Birmingham City Board of Education	1,500
Jasper Alternative School—Jasper City Board of Education	1,875
Jeff Davis High School—Montgomery County Board of Education	6,000
Jefferson County Board of Education	5,000
Jefferson County Board of Education	30,000
Jess Lanier High—Jefferson County Board of Education	1,000
Jim Pearson School—Alexander City Board of Education	2,000
John Essex High—Marengo County Board of Education	3,000
John Will Elementary School—Mobile County Board of Education	12,750
Johnson Elementary School—Montgomery County Board of Education	2,727
Johnston Elementary—Anniston City Board of Education	6,000
Jones Valley Elementary School— Huntsville City Board of Education	3,600
Jones Valley Middle School— Birmingham City Board of Education	2,000
Joppa School—Cullman County Board of Education	1,000
J.B. Pennington High School—Blount County Board of Education	3,500
Kate Shephard Elementary School— Mobile County Board of Education	5,000
Kingston Elementary School—Birmingham City Board of Education	3,000
Kinterbish Junior High—Sumter County Board of Education	1,750

Lacy Springs School—Morgan County Board of Education	1,000
Lafayette Lanier Elementary School— Chambers County Board of Education	10,000
Lamar County Board of Education	45,000
Lamar County Board of Education	3,000
Lanett City Board of Education	25,000
Lanier High School—Montgomery County Board of Education	10,000
Lanier High School—Bessemer City Board of Education	10,000
Lauderdale County Board of Education	21,000
Lawrence County Elementary School— Lawrence County Board of Education	1,880
Lawrence County High—Lawrence County Board of Education	2,210
Lawson State Community College	1,000
Lawson State Community College	1,500
<del>Lee County Board of Education</del>	<del>60,000</del>
Lee County Board of Education	10,000
Lee County Youth Summer Education Program—Lee County Board of Education	1,000
Lee Elementary—Mobile County Board of Education	6,000
Lee Elementary School—Birmingham City Board of Education	1,000
Leeds Elementary School—Jefferson County Board of Education	2,000
Leeds Elementary School—Jefferson County Board of Education	5,000
Leeds High School—Jefferson County Board of Education	10,000
Leeds High School—Jefferson County Board of Education	2,000

Leeds Junior High School—Jefferson County Board of Education	2,000
Leeds Middle School—Jefferson County Board of Education	5,000
Leflore High School—Mobile County Board of Education	5,000
Leighton Middle School—Colbert County Board of Education	2,000
Leighton Elementary School—Colbert County Board of Education	2,000
Leinkauf Elementary School—Mobile County Board of Education	2,500
Lewis Adams Elementary—Macon County Board of Education	1,700
Lewis Elementary School—Birmingham City Board of Education	3,000
Limestone County Board of Education	109,000
Linden City Board of Education	3,000
Lipscomb Junior High School—Jefferson County Board of Education	7,000
Lisman Junior High—Choctaw County Board of Education	1,750
Livingston High School—Sumter County Board of Education	2,500
Livingston Junior High—Sumter County Board of Education	1,750
Locust Fork School—Blount County Board of Education	3,500
Lowndes County Board of Education	7,000
Lowndes County Vocational School— Lowndes County Board of Education	1,000
Lupton Junior High School—Walker County Board of Education	2,500
L.M. Smith Middle School—Birmingham City Board of Education	500
Macon County Board of Education	7,000

Maddox Middle School—Jasper City Board of Education	1,875
Madison County Board of Education	20,000
Madison Cross Roads Elementary— Madison County Board of Education	2,000
Madison Middle School—Madison County Board of Education	3,000
Madison Park Hope Center—Montgomery County Board of Education	2,000
Mae Eanes Middle School—Mobile County Board of Education	2,500
Marbury School—Autauga County Board of Education—For Light Poles For Football Field	2,500
Marion County Board of Education	6,000
Marion County Schools in District 17	14,000
Marshall County Board of Education	24,000
Martha Thomas Elementary—Mobile County Board of Education	3,000
Martin High School—Walker County Board of Education	2,500
Mary W. Burroughs Elementary School— Mobile County Board of Education	5,000
McAdory School—Jefferson County Board of Education	5,000
McArthur Elementary School—Birmingham City Board of Education	1,375
McCaw Elementary School—Birmingham City Board of Education	1,500
McCord Elementary School—Albertville City Board of Education	2,000
McDonnell Elementary—Huntsville City Board of Education	2,000
McElwain Elementary School—Birmingham City Board of Education	2,500
McInnis School—Montgomery County Board of Education	2,727



Meadowlake Elementary—Mobile County Board of Education	5,000
Memorial Park Elementary School— Jasper City Board of Education	1,875
Merritt Junior High—Macon County Board of Education	1,806
Mertz Elementary School—Mobile County Board of Education	4,500
Midfield Elementary School—Midfield City Board of Education	3,500
Midfield Elementary School—Midfield City Board of Education	5,000
Midfield High School—Midfield City Board of Education	3,500
Midfield High School—Midfield City Board of Education	5,000
Millbrook Middle School—Elmore County Board of Education	10,000
Miller Ferry Elementary School— Wilcox County Board of Education	500
Minor Elementary School—Birmingham City Board of Education	1,500
Mobile County Training School— Mobile County Board of Education	5,000
Mobile County High School—Mobile County Board of Education	10,000
Monroe County Board of Education	25,000
Monrovia Elementary—Madison County Board of Education	3,000
Montana Elementary—Dothan City Board of Education	3,000
Monte Sano Elementary School— Huntsville City Board of Education	3,600
Montgomery County Board of Education	140,000
Montgomery County High School— Montgomery County Board of Education	2,727

Moore Elementary School—Birmingham City Board of Education	1,500
Morningside Elementary School— Mobile County Board of Education	4,500
Morningview Elementary School— Montgomery County Board of Education	3,000
Morris Elementary—Huntsville City Board of Education	2,000
Mortimer Jordan High School— Jefferson County Board of Education	3,750
Moulton Middle School—Lawrence County Board of Education—For School Library	1,750
Mountain Brook City Board of Education	25,000
Mountain Gap Elementary—Huntsville City Board of Education	2,000
Mountain Gap Middle School—Huntsville City Board of Education	2,000
Mt. Hope School—Lawrence County Board of Education	1,430
Murphy High School—Mobile County Board of Education	2,500
Muscle Shoals High School—Muscle Shoals City Board of Education	2,000
Nan Gray Davis Elementary—Mobile County Board of Education	5,000
Neel School—Morgan County Board of Education	980
New Hope Elementary and High School— Madison County Board of Education	2,000
New Hope High School—Madison County Board of Education	2,000
New Market Junior High School—Madison County Board of Education	2,000
New School—Birmingham City Board of Education	1,000
New Site School—Tallapoosa County Board of Education	2,000

North Birmingham Community School— Birmingham City Board of Education	3,000
North Birmingham Elementary School— Birmingham City Board of Education	3,000
North Highlands Elementary—Jefferson County Board of Education	2,000
North Sumter Junior High—Sumter County Board of Education	1,750
Northside High—Tuscaloosa County Board of Education	2,500
Northview High—Dothan City Board of Education	3,000
Norwood Community School—Birmingham City Board of Education	1,375
Norwood Elementary—Anniston City Board of Education	6,000
Norwood Elementary—Birmingham City Board of Education	1,375
Notasulga High—Macon County Board of Education	2,750
Oak Grove School—Jefferson County Board of Education	2,500
Oakman Elementary—Walker County Board of Education	2,500
Oakman High School—Walker County Board of Education	2,500
Old Shell Road Elementary School— Mobile County Board of Education	2,500
Oneonta City Board of Education	5,500
Opp City Board of Education	12,000
Orchard Elementary School—Mobile County Board of Education	12,750
Owens Cross Roads Elementary and Junior High—Madison County Board of Education	2,000
Oxford City Board of Education—For Equipment	9,000

Oxford Middle School—Oxford City Board of Education	5,000
Paint Rock Valley High School— Jackson County Board of Education	2,000
Palmer Elementary—Mobile County Board of Education	5,000
Paramount High School—Greene County Board of Education	2,500
Parents As First Teachers Program— Mobile County Board of Education	5,500
Parker High Community School— Birmingham City Board of Education	5,000
Parrish Elementary—Walker County Board of Education	2,500
Parrish High School—Walker County Board of Education	2,500
Pell City Board of Education	15,000
Perry County Board of Education	10,000
Phenix City Board of Education—For Computers	15,000
Phillips High School—Birmingham City Board of Education	4,000
Pickens County Board of Education	18,000
Piedmont City Board of Education	4,875
Pike County Board of Education	10,000
Pine Hill Elementary School—Wilcox County Board of Education	500
Pine Hill Middle School—Wilcox County Board of Education	500
Pinson Elementary School—Jefferson County Board of Education	1,250
Pinson High School—Jefferson County Board of Education	2,500
Pintlala Elementary School—Montgomery County Board of Education	2,727
Pittman Junior High—Jefferson County Board of Education	2,500

Pittman Junior High—Jefferson County Board of Education	2,500
Pleasant Grove Elementary School— Jefferson County Board of Education	7,000
Pleasant Grove High School—Jefferson County Board of Education	7,000
Powderly Elementary School—Birmingham City Board of Education	1,000
Powell Elementary School—Birmingham City Board of Education	1,375
Prattville Elementary School—Autauga County Board of Education—For Instructional Teaching Aids	2,500
Prattville High School—Autauga County Board of Education—For Band Uniforms	3,000
Prattville Intermediate School— Autauga County Board of Education— For Water Fountains And For Renovation Of Physical Education Facilities	2,500
Prattville Junior High School— Autauga County Board of Education— For Construction Project	2,500
Prattville Kindergarten—Autauga County Board of Education—For Instructional Teaching Aids	2,500
Prattville Primary School—Autauga County Board of Education—For Library Books	2,500
Price Elementary School—Birmingham City Board of Education	1,000
Priceville Junior High School—Morgan County Board of Education	10,000
Princeton Elementary School—Birmingham City Board of Education	1,000
Putnam Elementary School—Birmingham City Board of Education	2,500

Radney Elementary School—Alexander City Board of Education	2,000
Ramsey Alternative High School— Birmingham City Board of Education	3,000
Randolph Park Elementary—Anniston City Board of Education	6,000
Reeltown School—Tallapoosa County Board of Education	2,000
Rehobeth Elementary—Houston County Board of Education	3,000
Ridgecrest Elementary—Huntsville City Board of Education	3,000
Riggin Elementary School—Birmingham City Board of Education	3,000
Riley Elementary School—Birmingham City Board of Education	10,000
Robbins Elementary—Mobile County Board of Education	3,000
Robert E. Lee High School—For Athletic Department—Montgomery County Board of Education	5,000
Robinson Elementary School—Fairfield City Board of Education	8,000
Robinson Springs School—Elmore County Board of Education	10,000
Rudd Junior High School—Jefferson County Board of Education	1,500
Russell County Board of Education	25,000
Russell County Board of Education— For Science Department at Russell County Comprehensive High School	7,500
Russell Elementary School—Lowndes County Board of Education	500
Russellville City Board of Education	10,000
Rutledge School—Midfield City Board of Education	3,500
Ryan School—Morgan County Board of Education	1,000

Saks Elementary—Calhoun County Board of Education—For Construction of Multi-Purpose Buildings	10,000
Saraland Elementary—Mobile County Board of Education	6,000
Sardis High—Etowah County Board of Education	1,500
Satsuma High School—Mobile County Board of Education	5,000
Scott Elementary School—Birmingham City Board of Education	1,500
Scottsboro City Board of Education	20,000
Scottsboro High School—Scottsboro City Board of Education	2,000
Scottsboro Junior High School— Scottsboro City Board of Education	2,000
Selma City Board of Education	4,000
Selma City Board of Education	13,000
Selma Elementary—Dothan City Board of Education	3,000
Semmes Junior High School—Mobile County Board of Education	8,000
Shady Grove Elementary—Choctaw County Board of Education	3,000
Shaw High School—Mobile County Board of Education	12,750
Sheffield High School—Sheffield City Board of Education	6,000
Shelby County Board of Education	30,000
Shelby County Board of Education	25,000
Shrine School for Exceptional—Jasper City Board of Education	1,875
Sidney Phillips Preparatory Magnet School— Mobile County Board of Education	2,500
Sipsey Junior High School—Walker County Board of Education	1,875

Skyline High School—Jackson County Board of Education	2,000
Snow Rogers Elementary—Jefferson County Board of Education	3,750
South Brookley Elementary School— Mobile County Board of Education	4,500
South Highland Middle School—Macon County Board of Education	2,152
South Macon High—Macon County Board of Education	2,430
South Marengo High—Marengo County Board of Education	3,000
Southeastern Elementary School—Blount County Board of Education	3,500
Southern Choctaw High—Choctaw County Board of Education	3,000
Southside Elementary—Dothan City Board of Education	3,000
Sparkman High—Madison County Board of Education	3,000
Sparkman Junior High School—Morgan County Board of Education	4,000
Spaulding Elementary School— Birmingham City Board of Education	1,000
Speake School—Lawrence County Board of Education	2,080
Springdale Elementary—Jefferson County Board of Education	3,750
Springs Elementary—Macon County Board of Education	2,739
St. Clair County Board of Education	20,000
Stanhope Elmore High School—Elmore County Board of Education	4,000
Stephens Elementary School—Alexander City Board of Education	2,000
Stringer Elementary—Dothan City Board of Education	3,000



St. Elmo Elementary School—Mobile County Board of Education	5,000
Sumiton Elementary—Middle School— Walker County Board of Education	1,875
Sumter County High School—Sumter County Board of Education	2,500
Susan Moore School—Blount County Board of Education	3,500
Sweetwater High—Marengo County Board of Education	3,000
Sylacauga City Board of Education	25,500
Talladega City Board of Education	20,000
Talladega County Board of Education	31,000
Talladega County Board of Education	25,500
Tallapoosa County Board of Education— For School Buses, School Bus Turn- Arounds, Books and Supplies	30,000
Tallassee City Board of Education	7,500
Tanner Williams Elementary School— Mobile County Board of Education	4,500
Tarrant City Board of Education	7,500
Tate Chapel Elementary School— Wilcox County Board of Education	500
Tennessee Valley School—Lawrence County Board of Education	905
Tenth Street Elementary—Anniston City Board of Education	6,000
Theodore High School—Mobile County Board of Education	10,000
Theodore Middle School—Mobile County Board of Education	25,000
Thomasville City Board of Education	3,000
Thompson Elementary—Gadsden City Board of Education	1,500
Townley Junior High School—Walker County Board of Education	2,500

Troy City Board of Education	10,000
Troy Elementary—Troy City Board of Education	5,000
Tuxedo Elementary School—Birmingham City Board of Education	1,500
Tuscaloosa City Board of Education	32,000
Tuscaloosa County Board of Education	8,000
Tuscaloosa County Board of Education	12,000
Tuscaloosa County Board of Education	30,000
Tuskegee Public School—Macon County Board of Education	3,365
Tuskegee Institute High—Macon County Board of Education	3,870
T.R. Simmons Elementary School—Jasper City Board of Education	1,875
T.S. Boyd Elementary and Junior High School—Walker County Board of Education	1,875
Underwood Elementary School—Lauderdale County Board of Education	2,667
Union Hill School—Morgan County Board of Education	1,000
Valley High School—Chambers County Board of Education	10,000
Valley Junior High School—Chambers County Board of Education	10,000
Valley Junior High School—Walker County Board of Education	1,875
Vaughn Road Elementary School— Montgomery County Board of Education	2,000
Vestavia Hills City Board of Education	10,000
Vestavia Hills City Board of Education	10,000
Vigor High—Mobile County Board of Education	4,000
Vinemont School—Cullman County Board of Education	3,666

Walker Area Vocational School—Walker County Board of Education	1,875
Walker County Alternative School— Walker County Board of Education	1,875
Walker Elementary—Tuscaloosa County Board of Education	2,500
Walker High School—Jasper City Board of Education	1,875
Walnut Grove Junior High School— Madison County Board of Education	2,000
Walter Jackson Elementary School— Decatur City Board of Education	4,000
Wares Ferry Road Elementary School— Montgomery County Board of Education	3,000
Wares Ferry Road Elementary School— Montgomery County Board of Education	2,727
Washington County Board of Education—To Be Used For Maintenance	13,815
Washington Elementary School— Birmingham City Board of Education	3,500
Washington Public School—Macon County Board of Education	1,960
Waterloo High School—Lauderdale County Board of Education	2,666
Weatherly Elementary—Huntsville City Board of Education	2,000
Weatherly Elementary School—Huntsville City Board of Education	3,600
Webb Junior High—Houston County Board of Education	2,500
Webster Elementary School—Muscle Shoals City Board of Education	2,000
Wellborn Elementary—Calhoun County Board of Education	25,000
Wolti School—Cullman County Board of Education	1,000
Wenonah Community School—Birmingham City Board of Education	1,000

Wenonah Elementary School—Birmingham City Board of Education	1,000
Wenonah Elementary School—Birmingham City Board of Education	5,000
Wenonah High School—Birmingham City Board of Education	5,000
Wenonah High School—Birmingham City Board of Education	5,000
West End Community School—Birmingham City Board of Education	2,000
West End Elementary School—Albertville City Board of Education	2,000
West End High School—Birmingham City Board of Education	7,000
West Hills Elementary—Bessemer City Board of Education	1,500
West Jasper Elementary School—Jasper City Board of Education	1,875
West Jefferson School—Jefferson County Board of Education	1,500
West Madison Elementary—Madison County Board of Education	2,000
West Morgan High School—Morgan County Board of Education	10,000
West Point School—Cullman County Board of Education	3,666
Westlawn Elementary School—Mobile County Board of Education	2,500
Westlawn Middle School—Huntsville City Board of Education	3,000
Whistler Elementary—Mobile County Board of Education	3,000
White Hall Elementary School—Lowndes County Board of Education	500
Whitesboro Elementary—Etowah County Board of Education	1,500
Whitesburg Elementary—Huntsville City Board of Education	2,000

Whitesburg Middle School—Huntsville City Board of Education	2,000
Whitley Elementary—Mobile County Board of Education	5,000
Wicksburg Elementary—Houston County Board of Education	3,000
Wilcox Central High School—Wilcox County Board of Education	25,000
Wilcox County Board of Education	6,000
Wilkerson Elementary School—Birmingham City Board of Education	1,375
Williams Avenue School—Fort Payne City Board of Education	10,000
Williamson High School—Mobile County Board of Education	2,000
Wilson Elementary—Dothan City Board of Education	3,000
Wilson High School—Lauderdale County Board of Education	2,667
Winfield City Board of Education	5,000
Winston County Board of Education	8,000
Woodcock Elementary School—Mobile County Board of Education	2,500
Woodville High School—Jackson County Board of Education	2,000
Woodward Elementary School—Jefferson County Board of Education	7,000
Wylan Elementary School—Birmingham City Board of Education	1,000
W.J. Jones Elementary School—Wilcox County Board of Education	500
York West End Junior High—Sumter County Board of Education	1,750
Zinnerman Elementary School—Jefferson County Board of Education	3,000

**Section 2.** There is hereby appropriated the sum of two hundred forty-five thousand dollars (\$245,000) from the Alabama Special

Educational Trust Fund to the following public educational institutions for the fiscal year ending September 30, 1991:

Alabama Black Archives Research Center and Museum, Alabama A&M University	8,000
Auburn University	55,000
Jacksonville State University	40,000
Kenneth E. Johnson Research Center, University of Alabama, Huntsville	50,000
North Alabama Educational Opportunity Center, Alabama A&M University	7,000
Troy State University System	40,000
University of Alabama at Birmingham	10,000
University of Alabama at Birmingham— Community Relations	25,000
University of North Alabama— For Security	10,000

**Section 3.** There is hereby appropriated the sum of two hundred fifty-eight thousand seven hundred fifty dollars (\$258,750) from the Alabama Special Educational Trust Fund to the Alabama Public Library Service to be distributed to the following public libraries for the fiscal year ending September 30, 1991:

Albertville Public Library	2,500
Alex City Public Library	3,000
Altoona City Library	30,000
Altoona City Public Library	50,000
Auburn City Library	1,000
Avondale Public Library	1,250
Bayou La Batre City Library	5,000
Boaz Public Library	2,500
Chambers County Library Board— Lafayette, Alabama	10,000
Crossville Public Library	2,500
Dadeville Library	3,000
Eastwood Mall Public Library	1,250

Geraldine Public Library	2,500
Gurley Public Library	2,000
Horseshoe Bend Library	2,000
Irondale Public Library	1,250
Leeds Public Library	1,250
Liberty Christian Academy Library	1,000
Luverne Public Library	5,000
Millbrook City Library	2,000
Mobile Public Library	100,000
Mobile Public Library—700 Government Street Fund	9,000
Mobile Public Library—Dauphin Island Parkway Branch	5,000
New Hope Public Library	2,000
Scottsboro Public Library	2,000
Selma-Dallas County Public Library	5,000
Tallassee Public Library	2,000
Trussville Public Library	750
Wetumpka City Library	2,000
Woodville Public Library	2,000

**Section 4.** There is hereby appropriated the sum of twenty-five thousand dollars (\$25,000) from the Alabama Special Educational Trust Fund to the following public educational entity for the fiscal year ending September 30, 1991:

Alabama Public Television Network— For Statewide Scholastic Competition	25,000
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**Section 5.** There is hereby appropriated the sum of fifteen thousand dollars (\$15,000) from the Alabama Special Educational Trust Fund to the following public educational entity for the fiscal year ending September 30, 1991:

Mobile Arts Council—For Development of a Cultural Plan for the Arts in Mobile County	15,000
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**Section 6.** There is hereby appropriated the sum of thirty thousand dollars (\$30,000) from the Alabama Special Educational

Trust Fund to the following public educational entity for the fiscal year ending September 30, 1991:

Volunteers of CRC in Clay, Randolph and Chambers Counties—To Be Used For Educational Purposes	30,000
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**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective October 1, 1990.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-649

H. 76—Rep. Walker

### AN ACT

To authorize and provide the procedure for members of the legislature and the Lieutenant Governor to be covered under the state employees' health insurance plan; to provide for the payment of the premiums for members of the legislature, the Lieutenant Governor and their dependents; to require the state employees' insurance board to promulgate rules and regulations as may be required for the effective administration of the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any member of the legislature and the Lieutenant Governor, during their term of office, and their dependents, shall be eligible for coverage under the state employees' health insurance plan and upon expiration of their term of office may continue such coverage for a maximum of thirty-six months.

**Section 2.** Preexisting conditions shall not be covered until the insured has been covered under the plan for a period of 12 months, provided, however, that any legislator enrolling within 30 days of the effective date of this act or within 30 days of the beginning of any calendar year thereafter shall not be subject to this limitation of benefits. A preexisting condition is any condition for which the insured or their covered dependent received medical treatment, advice or consultation or received any prescribed medication within 12 months of the effective date of the insured's coverage under the plan.

**Section 3.** The premiums for the insurance coverage for a legislator, the Lieutenant Governor and their dependents shall be paid by the individual legislator and the Lieutenant Governor.



**Section 4.** The state employees' insurance board shall promulgate such rules and regulations as may be required for the effective administration of the provisions of this act.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

Act No. 90-650

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S. 62—Senators Corbett, Figures, Parsons, Bennett, Windom, Manley, Rice, Denton, Smith (J), Bedford, Covington, Campbell, Amari, Bedsole, Goodwin, Holmes, Drinkard, Foshee, deGraffenried, Hale, Ellis, Dial, Sanders, Cabaniss, Langford, Dixon, Hilliard and Horn

### AN ACT

To make a certain appropriation from the state general fund to the Alabama Department of Economic and Community Affairs, to make grants to initially establish and to recapitalize economic development revolving loan funds that regional planning and development commissions may draw upon for monies to facilitate access to available federal funds or foundation grants that could provide capital for economic development projects; to provide for a permanent regional revolving loan policy committee to review and approve allocations from the Alabama Department of Economic and Community Affairs to the revolving loan funds of the several regional planning and development commissions throughout the state; to authorize the Alabama Department of Economic and Community Affairs to promulgate and implement administrative rules and procedures for the administration of such revolving loan funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated from the state general fund to the Alabama Department of Economic and Community Affairs for the 1990-91 fiscal year the sum of \$500,000 dollars to be used to create and establish throughout this state several economic development revolving loan funds from which the several existing regional planning and development commissions, as defined in Sections

11-85-50 through 11-85-73, may disperse monies, from time to time, to finance local economic development projects. These funds shall be distributed by the Department of Economic and Community Affairs to qualifying regional planning commissions for disbursement. The Department of Economic and Community Affairs shall establish such policies and procedures as may be deemed necessary as to insure accountability of funds in relation to state statutes and federal programs to which these funds may be pledged as required match. Such policies and procedures will be reviewed and approved or disapproved by the regional revolving loan policy committee herein established by this act. Monies borrowed from such revolving loan funds may be combined with or used to facilitate access to either federal funds or foundation grants or loans or to leverage private sector financing that may be available for initial or "seed" capital, long or short term fixed asset or equipment loans or working capital for local economic development projects for improving, developing or financing new, existing or expanding business or industry to preserve or create employment. Such borrowed monies shall be loaned and repaid under such rules, regulations and conditions as prescribed by Alabama Department of Economic and Community Affairs and approved, from time to time, by the regional revolving loan policy committee provided for in Section 2 of this act. Principal and interest payments to the economic development revolving loans fund shall be retained by the respective economic development revolving loan funds for local economic development. Reasonable administrative costs for servicing such loans and for the administration of the respective economic development revolving loan funds may be paid from fees, charges and interest on the loans and from available balances.

**Section 2.** The monies appropriated to the Alabama Department of Economic and Community Affairs under the provisions of Section 1 of this act shall be used to create and establish economic development revolving loan funds throughout this state, pursuant to rules hereunder and approved by the regional revolving loan policy committee. This committee shall be established for purposes of reviewing and approving policies and procedures, and to provide general oversight for this program. This committee shall be composed of the following members: the director of the Alabama Department of Economic and Community Affairs, the director of the Alabama Development Office, two members of the Senate appointed by the Lieutenant Governor, the chairperson of the Senate Economic Affairs Committee, two members of the House appointed by the Speaker of the House, the chairperson of the House Commerce and Industrial Development Committee, and four members appointed by the Governor. The executive directors from the regional planning commissions shall serve as ex officio, nonvoting members of the regional revolving loan policy committee. The terms of the legislative members and the Alabama

Development Office Director and the Alabama Department of Economic and Community Affairs Director shall run concurrent with the four-year term of the Governor. The initial members appointed by the Governor shall serve staggered terms of one, two, three and four years. The length of the terms for the Governor's appointees, except for the original appointees shall be four years. Vacancies shall be filled by the same method of appointment. The Director of the Alabama Department of Economic and Community Affairs shall call an organizational meeting for such committee no later than thirty days after the effective date of this act. At such meeting, such committee shall select from its membership a chairperson and a vice-chairperson. Thereafter, such committee shall likewise reorganize itself at its first meeting of each new legislative quadrennium. Such committee shall meet at least four times per year on call of its chairperson. All members of the regional revolving loan policy committee shall serve without compensation except legislative members who shall be entitled to their regular legislative compensation for attendance in committee meetings. The Alabama Department of Economic and Community Affairs shall promulgate and implement administrative rules, regulations and procedures for the allocation of the appropriated general fund monies.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-651

S. 484—Senator Drinkard

### AN ACT

To amend Section 19-3-120.1, Code of Alabama 1975, so as to provide that a trustee, executor, administrator, guardian, conservator or other fiduciary may invest in a common trust fund, collective investment fund, interests in an investment company or investment trust which consists of investments permitted with respect to the fiduciary and that such investments are permitted where such fiduciary or its affiliate receives a reasonable fee for services to an investment company or investment trust, provided the fiduciary discloses the basis of such fee to the current income beneficiary of the fiduciary account.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 19-3-120.1, Code of Alabama 1975, is hereby amended to read as follows:

“§19-3-120.1.

“In addition to the investments authorized by section 19-3-120, by any other provision of law for the investment of funds held by a trustee, executor, administrator, guardian, conservator or other fiduciary, or by the will, trust agreement or other document which is the source of authority, such fiduciary may invest in and hold (1) interests, however evidenced, in any common trust fund or other collective investment fund maintained by any national or state chartered bank, trust company or savings and loan association having trust powers, or (2) securities of or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, so long as the portfolio of such common trust fund, collective investment fund or investment company or investment trust consists of investments authorized with respect to such fiduciary by section 19-3-120, by any other provision of law, or by the will, trust agreement or other document which is the source of authority. The fact that such fiduciary or any affiliate thereof is providing services to the investment company or investment trust as an investment advisor, sponsor, distributor, custodian, transfer agent, registrar, or otherwise, and is receiving reasonable remuneration for such services, shall not preclude such fiduciary from investing in the securities of such investment company or investment trust; provided, however, that with respect to any fiduciary account to which fees are charged for such services, the fiduciary shall disclose (by prospectus, account statement or otherwise) to the current income beneficiaries of such account or to any third party directing investments the basis (expressed as a percentage of asset value or otherwise) upon which the fee is calculated. This section shall not, insofar as such authorization may be prohibited by the Constitution of this state, authorize the investment or trust funds in the stock of any private corporations.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

Act No. 90-652

S. 373—Senators Windom, Bedsole,  
Figures and Lipscomb

## AN ACT

To amend Section 40-20-8, Code of Alabama 1975, so as to clear up some inconsistent language.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-20-8, Code of Alabama 1975, is hereby amended to read as follows:

“§40-20-8.

“(a) Ninety percent of the net amount of all taxes herein levied and collected by the department on oil or gas produced from submerged lands as herein defined shall be deposited to the state general fund. The remaining 10 percent on such net amount shall be allocated and distributed by the comptroller to the county in which the oil or gas was produced for county purposes or to be expended at the discretion of the county governing body.

“(b) Twenty-five percent of the net amount of all taxes herein levied and collected by the department except as provided herein in subsection (a) shall be deposited by the department to the general fund of the state.

“(c) Sixty-six and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department, after the same has been certified into the state treasury, shall be allocated and distributed by the comptroller to the credit of the general fund of the state and to the county in which the oil or gas was produced and to the municipalities therein in the proportion set out in the following schedule:

“(1) Twenty-five percent of all taxes herein levied and collected on oil and gas produced from oil or gas wells located within any county, shall be allocated and distributed to each such county for county purposes or to be expended at the discretion of the county governing body. In all counties having a population of not less than 34,875 nor more than 36,000, according to the 1970 federal decennial census, such funds shall be allocated and distributed by the counties to the boards of education of the public schools in such counties on a pro rata basis as established by the number of children in net enrollment in the public schools during the prior school attendance year. In all counties having a population of not less than 16,000 nor more than 16,250, according to the 1970 federal decennial census, such funds shall be allocated and distributed by the counties as

follows: Each year the first \$150,000.00 shall be paid to the custodian of the county school funds, and after the payment of said \$150,000.00 each year, the balance of said funds shall be divided and paid one-third to the custodian of the county school funds and two-thirds to the county general funds.

“(2) Ten percent of all taxes herein levied and collected on oil and gas produced from oil or gas wells located within the corporate limits or the police jurisdiction of any municipality shall be allocated and distributed to each such municipality; except that all wells within the corporate limits of police jurisdiction of any municipality where taxes are levied and collected at a rate of four percent, 10 percent of all said 4 percent taxes shall be distributed to each such municipality.

“(3) Fifty percent of the first \$150,000.00 remaining, or any part thereof, collected per year under the provisions of this article, shall be allocated and distributed to the state, 42 1/2 percent to the county and seven and one-half percent to municipalities therein on a population basis.

“(4) Eighty-four percent of all remaining sums collected per year under the provisions of this article shall be allocated and distributed to the state, 14 percent to the county and two percent to municipalities therein on a population basis.

“(d) Sixteen and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department shall be certified into the state treasury to the credit of the state general fund.

“(e) Sixteen and two-thirds percent of the remaining 75 percent of all taxes herein levied and collected by the department on oil and gas produced from oil or gas wells located within any county shall be allocated and distributed to each such county for county purposes, to be expended at the discretion of the county governing body.

“(f) For the purposes of this section, when part of the property within the drilling or production unit or within the unit area for any producing well(s) consists of submerged lands and part consists of lands other than submerged lands (herein called onshore lands), the following shall apply:

“(1) only that portion of production (oil or gas or both) from said well(s) allocated (under or pursuant to an order of the State Oil and Gas Board) to the submerged lands shall be deemed to have been produced from submerged lands, regardless of where the actual well(s) from which said production was obtained is (are) located;

“(2) the portion of said production allocated (under or pursuant to an order of the State Oil and Gas Board) to the onshore lands

shall be deemed to have been produced from a well located on the onshore lands to which such production is allocated, and the portion of said production allocated (under or pursuant to such an order) to any onshore lands located within the police jurisdiction or the corporate limits of any municipality shall be deemed to have been produced from a well located within said corporate limits or police jurisdiction;

“(3) if, because of common ownership or otherwise, no specific portion of the production from said well(s) has been separately allocated (under or pursuant to an order of the State Oil and Gas Board) to any or all of the onshore lands located within said drilling or production unit or within a designated tract in said unit area, then, for the purposes of this section, a portion of said production shall be deemed to have been allocated (under or pursuant to such an order) to the onshore lands in question, such portion to be in the proportion that the acreage of said onshore land to which no specific portion of the production has been separately allocated bears to the total acreage included within the unit or designated tract (whichever is applicable); and

“(4) any production not allocated to or deemed to have been allocated to the onshore lands shall be deemed to have been allocated (under or pursuant to an order of the State Oil and Gas Board) to the submerged lands.

“(g) Anything herein to the contrary notwithstanding, onshore lands shall mean all lands that are not submerged lands (as elsewhere herein defined); provided, however, if any submerged lands are located within the police jurisdiction or corporate limits of any municipality, those submerged lands shall, for the purposes of this section, be defined as, and deemed to be, onshore lands and not submerged lands.

“(h) The provisions of this section shall apply only to the allocation and distribution of taxes and shall not apply to the levy and collection of taxes; and nothing contained in this section shall be construed to affect in any way the provisions of Section 40-20-2.

“(i) A final determination establishing the allocation base shall be made within 90 days of the effective date of this act.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

Act No. 90-653

S. 632—Senator Horn

## AN ACT

To make appropriations to the certain public entities in Alabama for general public educational purposes for the fiscal year ending September 30, 1991. Said educational purposes shall include but shall not be limited to capital improvements, library acquisitions, equipment purchases, transportation, renovations and operations and maintenance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated the sum of two million four hundred seven thousand five hundred dollars (\$2,407,500) from the Alabama Special Educational Trust Fund to the following local boards of education for the fiscal year ending September 30, 1991:

Birmingham City Board of Education	318,000
Mobile County Board of Education	210,333
Huntsville City Board of Education	12,000
Madison County Board of Education	38,500
Jefferson County Board of Education	31,000
Selma City Board of Education	15,000
Pike County Board of Education	15,000
Butler County Board of Education	15,000
Troy City Board of Education	15,000
Ozark City Board of Education	15,000
Montgomery County Board of Education— for Ramer Elementary School's Kindergarten Program	6,000
Dale County Board of Education	30,000
Dallas County Board of Education	15,000
Autauga County Board of Education	25,000
Chilton County Board of Education	25,000
Bibb County Board of Education	15,000
Morgan County Board of Education	20,000
Lawrence County Board of Education	35,000
Decatur City Board of Education	18,000



Hartselle City Board of Education	10,000
Cullman City Board of Education	50,000
Jackson County Board of Education	50,000
DeKalb County Board of Education	40,000
Russellville City Board of Education	10,000
Winfield City Board of Education	10,000
Haleyville City Board of Education	10,000
Winston County Board of Education	10,000
Fayette County Board of Education	10,000
Lamar County Board of Education	10,000
Marion County Board of Education	10,000
Franklin County Board of Education	10,000
Limestone County Board of Education	19,500
Athens City Board of Education	10,500
Lauderdale County Board of Education	18,000
Montgomery County Board of Education—	46,000
Which shall include the following allocations:	
CCPAC .....	6,000
School Libraries .....	7,000
Tutoring and/or a stay-in school program .....	2,500
Baldwin Art and Academic Magnet School for Transportation Purposes .....	2,500
Montgomery County Board of Education	93,000
Homewood City Board of Education	10,000
Midfield City Board of Education	13,000
Lee County Board of Education—	29,000
Which shall include the following allocations:	
Smith Station High School .....	5,000

Smith Station Elementary School .....	5,000
Smith Station FFA .....	1,000
Beulah High School .....	5,000
Beulah High School FFA .....	1,000
Beauregard High School .....	5,000
Beauregard High School FFA .....	1,000
Loachapoka High School .....	5,000
Loachapoka FFA .....	1,000
Opelika City Board of Education—	4,000
Which shall include the following allocations:	
Opelika High School Band .....	2,000
Opelika High School FFA .....	2,000
Macon County Board of Education—	
Notasulga High School Band	5,000
Tallapoosa County Board of Education—	
Reeltown High School	6,000
Tallassee City Board of Education	15,000
Calhoun County Board of Education—	
Walter Wellborn School	73,000
Oxford City Board of Education—	
Oxford High School	30,000
Huntsville City Board of Education	76,000
To be allocated as follows:	
Academy for Academics & Arts .....	2,000
Blossomwood Elementary .....	2,000
Chapman Elementary .....	2,000
Colonial Heights Elementary .....	2,000
Davis Hills Elementary .....	2,000
East Clinton Elementary .....	2,000
Jones Valley Elementary .....	2,000
Lakewood Elementary .....	2,000

Lincoln Elementary .....	2,000	
Monte Sano Elementary .....	2,000	
Montview Elementary .....	2,000	
Rolling Hills Elementary .....	2,000	
Terry Heights Elementary .....	2,000	
University Place Elementary .....	2,000	
West Huntsville Elementary .....	2,000	
West Martin Lake Elementary .....	2,000	
Chapman Middle School .....	2,000	
Davis Hills Middle School .....	2,000	
Huntsville Middle School .....	2,000	
R.L. Stone Middle School .....	2,000	
Butler High School .....	4,500	
Huntsville High School .....	4,500	
Johnson High School .....	4,500	
Lee High School .....	4,500	
Grissom High School .....	4,500	
Huntsville Center for Technology .....	4,500	
C.I.T.Y. ....	2,000	
CLASS (Center for Learning Academic & Social Skills) .....	2,000	
NEEVES CENTER (D Home) Education Program .....	2,000	
Center for Developmental Learning .....	2,000	
Adult Education .....	1,000	
Madison County Board of Education—		4,000
To be allocated as follows:		
Moore's Mill Elementary .....	2,000	
Riverton Elementary .....	2,000	
Selma City Board of Education		12,000

Lowndes County Board of Education	12,000
Wilcox County Board of Education	12,000
Dallas County Board of Education	9,000
Perry County Board of Education	12,000
Hale County Board of Education	9,000
Greene County Board of Education	12,000
Choctaw County Board of Education	9,000
Sumter County Board of Education	12,000
Fairfield City Board of Education	68,000
Bessemer City Board of Education	15,000
Hoover City Board of Education	3,000
Marshall County Board of Education	10,000
Elmore County Board of Education	15,000
Arab City Board of Education	10,000
Guntersville City Board of Education	10,000
Albertville City Board of Education	10,000
Baldwin County Board of Education	68,667
Florence City Board of Education	15,000
Sheffield City Board of Education	15,000
Tuscumbia City Board of Education	15,000
Muscle Shoals City Board of Education	15,000
Colbert County Board of Education	15,000
Lauderdale County Board of Education	15,000
Phenix City Board of Education	14,000
Eufaula City Board of Education	14,000
Russell County Board of Education	14,000
Macon County Board of Education	63,500
Bullock County Board of Education	23,500
Barbour County Board of Education—	14,000

Which shall include the following  
allocations:

Baker Hill School ..... 1,700

Clayton Elementary .....	2,170	
Clayton High .....	1,980	
Clio Elementary .....	1,900	
Rebecca Comer Elementary School .....	1,700	
Louisville Elementary School .....	2,300	
Louisville High School .....	2,250	
Mobile County Board of Education—		105,000
To be allocated as follows:		
Alba Elementary School .....	3,000	
Alba Middle School .....	3,000	
Alba High School .....	4,000	
Brookley Elementary School .....	3,500	
Bryant Vocational Center .....	1,000	
Burroughs Elementary School .....	4,500	
Castlen Elementary School .....	4,500	
Craighead Elementary School .....	2,000	
Council Elementary School .....	2,000	
Dauphin Island School .....	2,000	
Davis Elementary School .....	4,500	
Dixon Elementary School .....	3,000	
Dodge Elementary School .....	4,250	
Dunbar Middle School .....	3,000	
Griggs Elementary School .....	4,500	
Hall Elementary School .....	3,000	
Hollingers Island School .....	2,500	
Meadowlake Elementary School .....	4,750	
Mertz Elementary School .....	2,500	
Mobile County High School .....	5,000	
Morningside Elementary School .....	6,500	
Pillans Middle School .....	5,000	

Rain High School .....	5,000
St. Elmo Elementary School .....	2,500
Theodore High School .....	5,000
Theodore Middle School .....	2,500
Williams Elementary School .....	3,000
Williamson High School .....	5,000
Mobile County Board of Education .....	2,000
Phillips Prep School .....	1,000
Mobile County Training School .....	1,000
Tuscaloosa County Board of Education	25,000
Walker County Board of Education	25,000
Pickens County Board of Education	25,000
Escambia County Board of Education	25,000
Brewton City Board of Education	25,000
Andalusia City Board of Education	25,000
Coffee County Board of Education	25,000
Opp City Board of Education	30,000

**Section 2.** There is also hereby appropriated the sum of one hundred fifty-four thousand five hundred dollars (\$154,500) from the Alabama Special Educational Trust Fund to the following municipalities for public library operations to be distributed to the following public libraries for the fiscal year ending September 30, 1991:

City of Somerville	5,000
Wheeler Basin	10,000
City of Cullman	3,000
City of Fayette	5,000
City of Kennedy	5,000
City of Russellville	5,000
City of Hamilton	5,000
City of Mobile—Toulmanville Branch	6,000
City of Prichard	9,000

City of Killen	1,500
City of Madison	1,500
City of Florence	1,500
City of Lexington	1,500
City of Rogersville	1,500
City of Huntsville	1,500
City of Athens	1,500
City of Wetumpka	5,000
City of Millbrook	5,000
City of Montgomery—Cleveland Avenue Branch	10,000
City of Montgomery—Normandale Branch	10,000
City of Mobile	4,000
City of Tuscumbia—Tennessee Valley Arts Center	10,000
City of Fairfield	1,750
City of Bessemer	1,750
City of Adamsville	1,750
City of Grant	5,000
City of Pleasant Grove	1,750
City of Hueytown	1,750
City of Warrior	1,750
City of Huntsville—For the acquisition of books	2,000
City of Birmingham	11,000
City of Tallassee	5,000
City of Dadeville	10,000
City of Graysville	1,750
City of Midfield	1,750

**Section 3.** There is also hereby appropriated to the following postsecondary educational institutions the sum of six hundred twenty

thousand dollars (\$620,000) from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1991:

Alabama Institute of Aviation Technology	15,000
George C. Wallace State Community College (Selma)	23,000
John C. Calhoun State Community College	6,500
George C. Wallace State Community College at Hanceville	110,500
Northeast Alabama State Junior College	25,000
John Patterson State Technical College	10,000
Northwest Alabama Community College	5,500
Opelika State Technical College	37,000
Brewer State Junior College	5,500
J.F. Drake State Technical College	4,000
Carver State Technical College	10,000
Trenholm State Technical College	37,000
Theodore A. Lawson State Community College	35,000
Bessemer State Technical College	12,000
Southwest State Technical College	5,000
Shoals Community College	11,000
Snead State Junior College	5,000
Jefferson State Community College	107,000
Walker County State Technical College	36,000
Enterprise State Junior College	30,000
McArthur State Technical College	30,000
Lurleen B. Wallace Junior College	30,000
Jefferson Davis State Junior College— Brewton	30,000

**Section 4.** There is also hereby appropriated the sum of one million seven hundred twenty-four thousand four hundred ninety-six dollars (\$1,724,496) from the Alabama Special Educational Trust Fund to the following public educational entities for the fiscal year ending September 30, 1991:

Public School and College Authority	1,564,500
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Athens State College	62,000
Alabama A&M University	17,996
University of North Alabama	1,500
University of Alabama—Huntsville	11,500
Tannehill Learning Center	45,000
Jacksonville State University	2,000
University of Alabama at Birmingham	20,000

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 25, 1990 without approval by the Governor.

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Act No. 90-654

S. 45—Senator Bedford

### AN ACT

To amend Section 36-27-16 of the Code of Alabama 1975, relating to retirement and disability allowances, so as to provide disability retirement allowance to municipal police officers and deputy sheriffs without regard to the number of years of creditable service.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-27-16, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-16.

“(a)(1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY; ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

“a. Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became

a member on or after October 1, 1963, shall have completed 10 or more years of creditable service; provided further, that a member employed as a state policeman shall be eligible to file application of service retirement upon attaining age 52.

"b. Any member who has attained age 60, or age 52 in the case of a state policeman, and has previously withdrawn from service may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, said member shall have at the time of his withdrawal from service completed the age and service requirements established by the board of control for eligibility for deferred benefits; provided, that such minimum number of years of creditable service shall not be less than 10 years nor more than 25 years.

"c. In addition to any law or part of law relating to service retirement under the employees' retirement system of Alabama, any member of the employees' retirement system who withdraws from service after completion of not less than 25 years of creditable service may retire without a reduction in retirement allowance upon written application to the board of control of the employees' retirement system setting forth the first day of which month, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he desires to be retired, provided that no person whose employer participates in the employees' retirement system under section 36-27-6 shall be entitled to the benefits provided in paragraph c of this subsection unless such employer elects to come under the provisions of said paragraph. Any employer making such election must bear the cost of such benefit.

#### "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

"a. Upon retirement from service a member shall receive a service retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the annuity shall be equal to the annuity that would have been payable upon service retirement at age 60 had the member continued in service to said age 60 without change in compensation;

"2. A pension which shall be equal to the annuity allowance at age of retirement, but not to exceed an annuity allowable at age 65, computed on the basis of contributions made prior to attainment of age 65; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the pension shall be equal to the annuity

that he would have received had he contributed to age 60 without change in compensation; and

“3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, an additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at age 60, but which shall not exceed an annuity allowable at age 60 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder.

“b. Notwithstanding the provisions of subparagraphs 1, 2, and 3 of paragraph a of this subdivision, a state policeman who has completed 20 years of service as a state policeman who retires after age 52 but prior to age 56 shall receive:

“1. An annuity which shall be equal to the annuity that would have been payable had the member continued in service for four years without change in compensation;

“2. A pension which shall be equal to the annuity that he would have received had he contributed for four years without change in compensation; and

“3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at the age of retirement plus four years by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of a member that was received during such prior service, the board of control may use for the purpose of this article the compensation rate which, if it had progressed with the rates of salary increase shown in the tables as prescribed in subsection (n) of section 36-27-23, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

“c. The annual service retirement pension payable to a member not employed as a state policeman retiring on or after October 1,

1975, shall not be less than an amount which, when added to his annuity, is equal to the greater of the following two amounts:

“1. Two and one-eightieth percent of the member’s average final compensation multiplied by the number of years of his creditable service; or

“2. If he became a member before October 1, 1965, \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“d. The annual service retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity is equal to the greater of the following two amounts:

“1. Two and seven-eighths percent of the member’s average final compensation multiplied by the number of years of his creditable service; or

“2. If he became a member before October 1, 1965, \$86.40 multiplied by the number of years of his creditable service not in excess of 25 years; provided, however, that if such member has completed 20 years of creditable service as a state policeman and has not attained age 60 at the time of retirement, said pension shall be determined as provided in this subparagraph on the basis of the number of years of creditable service which he would have had if he had remained in service for four years, except that, in the case of those state policemen retiring at age 56 or after, the number of years in determining said pension shall not exceed the number of years of creditable service which he would have had if he had remained in service to age 60.

“e. Anything in this article to the contrary notwithstanding, in the application of the foregoing provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification, the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member’s employment classification at the time of his withdrawal from service.

“f. The annual service retirement pension payable to any state employee who had attained age 60 on or before October 1, 1945, who declined membership in the employees’ retirement system of Alabama in the manner prescribed in section 36-27-4 and who retires as a state employee after completing a minimum of 15 years’ service shall

be \$72.00 multiplied by the number of years of his service not in excess of 25 years.

**"(b) (1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.**

"a. Upon application of a member in service or of his employer, any member who has had 10 or more years of creditable service who becomes disabled may be retired on a disability retirement allowance by the board of control not less than 30 nor more than 90 days next following the date of filing of such application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

"b. Without regard to the number of years of creditable service, a member employed as a state policeman, a municipal police officer or a deputy sheriff, or a member employed as a state, municipal or county firefighter who is not covered through his current employer under the United States Social Security Act who as a result of his employment, in the line of duty and not as a result of his own misconduct, shall become permanently and totally disabled to the extent that he cannot perform his duties or duties of a less strenuous nature, as an employee of the state of Alabama or as an employee of an employer participating under the provisions of section 36-27-6, shall be retired on a disability retirement allowance, not less than 30 nor more than 90 days next following the date of filing of such application, provided that the medical board, after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

**"(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.**

"a. Upon retirement for disability a member shall receive a service retirement allowance if he has attained age 60, or if any law or part of any law pertaining to retirement under the employees' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance and the member has completed 25 years of creditable service, or, in the case of a state policeman, if he has attained age 52; otherwise, he shall receive a disability retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"2. A pension which shall be equal to the pension that would have been payable under subparagraphs 2 and 3 of paragraph a of subdivision (2) of subsection (a) of this section upon service retirement at age 65 had the member continued in service to said age without change in compensation, reduced by one fourth of one percent for each month of retirement prior to age 60, up to a maximum reduction of 25 percent.

"b. The annual disability retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greatest of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service, reduced by one fourth of one percent for each month by which his date of retirement precedes his sixtieth birthday up to a maximum reduction of 25 percent; or

"2. If he became a member before October 1, 1965, \$54.00 multiplied by the number of years of his creditable service not in excess of 25 years; or

"3. If any law or part of any law pertaining to retirement under the employees retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance, two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service reduced by three percent for each year less than 25 years creditable service up to a maximum of 25 percent.

"c. The annual disability retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"1. Two and five thirty-seconds percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, \$64.80 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. Anything in this chapter to the contrary notwithstanding in the application of the provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification the benefit rates applicable to a member employed as a state

policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all other creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

“(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY.—Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the board of control may, and upon his application shall, require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and, should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of control; provided, that these requirements relative to the medical examination shall not apply in the case of a state policeman retired for disability and who has attained age 52. Should the medical board report and certify to the board of control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board of control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary, together with this annuity exceeds the amount of his average final compensation.

“(c) DISPOSITION OF CONTRIBUTIONS AND ALLOWANCES UPON DEATH, ETC., OF MEMBER.

“(1) Should a member cease to be an employee except by death or by retirement under the provisions of this article, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand and, in addition to such payment, there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than

16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

“(3) In case of the death of a member not eligible for service retirement, after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3 as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board of control.

“(d) **OPTIONAL ALLOWANCES.**—With the provision that the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in



lieu of his retirement allowance payable throughout life, the actuarial equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

“(1) Option 1.—If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of control;

“(2) Option 2.—Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement;

“(3) Option 3.—Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement; or

“(4) Option 4.—Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board of control.

“(e) (1) EFFECT OF RETURN TO ACTIVE SERVICE.—Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 52, his retirement allowance shall be suspended until he again withdraws from service and he shall not again become a member of the retirement system nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the board of control to allow him to again become a member of the retirement system. The board of control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any periods subsequent to the date of his reentry into active service and shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

“(2) Should any beneficiary on disability retirement be restored to active service before reaching age 52, he shall again become a member of the retirement system and shall make contributions.

"(f) (1) REDETERMINATION, ETC. OF CERTAIN ALLOWANCES.—All retirement allowance payments due on or after October 1, 1975, to members who retired prior to said date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a state policeman who retired on or before January 1, 1956, shall not be less than \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement of \$59.40 multiplied by the number of years of his creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision. Notwithstanding, any member who retired prior to October 1, 1975, and who chose either option 2 or option 3 may elect to receive a reduced allowance and to stipulate that the actuarial equivalent of the increase in his retirement allowance, which became effective on said date, be ascribed to his designated beneficiary; provided, that such member shall clearly express this intention by filing a written application to said effect with the secretary-treasurer of the employees' retirement system of Alabama prior to October 1, 1976.

"(2) Any person who, prior to October 1, 1963, was in receipt of a benefit pursuant to Act No. 376, approved November 6, 1959, but was not a member of the system at the time of retirement shall not be entitled to receive an annual retirement allowance from the system, effective October 1, 1971, as follows:

"a. If such person was retired on or before January 1, 1956, an amount equal to \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years.

"b. If such person was retired after January 1, 1956, an amount equal to \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"(3) Prior to October 31, 1975, any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivisions (1) or (2) of this subsection over the monthly allowance which he was receiving prior to October 1, 1975. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest

thereon, to the individual account of such beneficiary. Upon the death of such beneficiary the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representatives or to such person as he shall have nominated by written designation duly acknowledged and filed with the board of control."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:47 P.M.

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Act No. 90-655

S. 200—Senator Foshee

### AN ACT

To provide for the mandatory assessment of a "user fee" as an additional penalty for persons convicted of any controlled substance offense, and to provide for treatment alternatives.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known and may be cited as the Demand Reduction Assessment Act.

**Section 2.** (a) In addition to any disposition and fine authorized by Sections 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-211, 13A-12-212, 13A-12-213, 13A-12-215, or 13A-12-231, Code of Alabama 1975, or any other statute indicating the dispositions that can be ordered for such a conviction or an adjudication of delinquency, every person convicted of, or adjudicated delinquent for, a violation of any offense defined in the sections set forth above, shall be assessed for each such offense an additional penalty fixed at \$1,000 for first offenders and \$2,000 for second and subsequent offenders.

(b) All penalties provided for in this act shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of the controlled substance statutes set forth in Section 1 of this act, and nothing in this act shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to these controlled substance statutes.

**Section 3.** All penalties provided for in this act shall be collected as provided for collection of fines and restitution in Rule 10, Alabama Rules of Criminal Procedure, Temporary Rules.

**Section 4.** All monies collected pursuant to this act shall be forwarded to the Department of Corrections to be deposited in a revolving fund to be known as the "Drug Demand Reduction Fund,". The monies in the fund shall be expended by the Department of Corrections for drug education, prevention and treatment purposes.

**Section 5.** (a) The court may suspend the collection of a penalty imposed pursuant to this act if the defendant agrees to enter a drug rehabilitation program approved by the court and if the defendant agrees to pay for all or some portion of the costs associated with the rehabilitation program. The collection of a penalty imposed pursuant to this act shall be suspended during the defendant's participation in the approved rehabilitation program.

(b) Upon successful completion of the rehabilitation program, the defendant may apply to the court to reduce the penalty imposed pursuant to this act by any amount actually paid by the defendant for his participation in said program. The court shall not reduce the penalty pursuant to this section unless the defendant establishes to the satisfaction of the court that he has successfully completed the rehabilitation program.

(c) If the defendant's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this act shall be enforced.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1990

Time: 7:45 P.M.

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Act No. 90-656

S. 204—Senator Dixon

## AN ACT

To provide that counties and municipalities may enter into multi-year leases and purchase contracts; to specify the provisions which shall be included in such contracts;

to provide for severability of the provisions of this act; to provide for repeal or amendment of conflicting laws; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to and not a limitation upon other powers and authority, each county and municipality in this state is authorized and has the power to enter into multi-year lease, purchase, and lease purchase contracts of all kinds for the acquisition of goods, supplies, materials and all other types of personal property, real property and services provided that any such multi-year contract contains provisions for the following:

(a) The contract shall terminate without further obligation on the part of the county or municipality except as set forth in the contract as permitted by this Act at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided in this section;

(b) The contract may provide for automatic renewal unless positive action is taken by the county or municipality to terminate such contract, and the nature of such action shall be determined by the county or municipality and specified in the contract;

(c) The contract shall state the total obligation of the county or municipality for the calendar year of execution and shall further state the total obligation which will be incurred in each calendar year renewal term, if renewed; and

(d) The contract shall provide that title to any personal or real property leased shall remain in the lessor; and if a sales contract, title or a security interest or other lien shall remain with the seller or mortgagee or other secured party until fully paid for by the county or municipality.

**Section 2.** In addition to the provisions enumerated in Section 1 of this Act, any multi-year contract authorized by this section may, but is not required to, include:

(a) A provision which requires that the contract will terminate immediately and absolutely at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the county or municipality under the contract;

(b) A provision for the payment by the county or municipality of interest or the allocation of a portion of the contract payment to interest;

(c) Provisions related to the rights, remedies, obligations and other liabilities of the parties in the event of a default or other failure to comply with the provisions of the contract; and

(d) Any other provisions reasonably necessary to protect the interests of the county or municipality, and the seller, lessor or mortgagee, and other provisions as the parties may agree upon.

**Section 3.** Any multi-year contract containing the provisions enumerated in Section 1 of this Act shall be deemed to obligate the county or municipality only for those sums payable during the calendar year of execution or, in the event of a renewal by the county or municipality, for those sums payable in the individual calendar year renewal term.

No such multi-year contract which complies with this Act shall be deemed to create a debt of the county or municipality for the payment of any sum beyond the calendar year of execution or, in the event of a renewal, beyond the calendar year of such renewal. Nothing in this Act shall restrict counties or municipalities from executing reasonable contracts arising out of their proprietary functions. The provisions of this Act are cumulative to, and not in derogation of, rights of counties and municipalities, to execute and perform contracts, including multi-year contracts, as is otherwise permitted by law.

**Section 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby amended or repealed to the extent of such conflict as necessary to permit the full effectiveness of this Act.

**Section 6.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:50 P.M.

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Act No. 90-657

S. 574—Senator Windom

## AN ACT

To amend Section 11-44C-40, Code of Alabama 1975, which relates to the government of Class 2 Municipalities, so as to increase the amount of money which shall annually be available for the salaries of personnel who shall serve at the pleasure of the Mayor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-44C-40, Code of Alabama 1975, is hereby amended to read as follows:

“§11-44C-40.

“The mayor is hereby authorized to employ such additional personnel who shall serve at the pleasure of the mayor, and for such purposes an additional \$100,000.00 per annum shall be made available for the salaries of such personnel from the city treasury. Said personnel shall not be subject to the provisions of the merit system. This section shall not limit the authority of said mayor to appoint other employees of said city under the provisions of the merit system or otherwise where authorized by any other law.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:52 P.M.

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Act No. 90-658

S. 607—Senator Lipscomb

### AN ACT

Relating to Baldwin County, Alabama, amending Section 2 of Act No. 79-623, S. 479 of the 1979 Regular Session (Acts 1979, p. 1105), as amended, which act relates to the disposition of funds from the leasing of oil, gas and mineral rights owned by the county on rights-of-way within the county road system, so as to further provide therefor; to require that certain sums be restored and maintained in such fund; and to provide for the acquisition of property, construction, repair and maintenance of public parks, recreational areas and water access areas, and roadways thereto, upon acceptance at the discretion of the county commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 79-623, S. 479 of the 1979 Regular Session (Acts 1979, p. 1105), is hereby amended to read as follows:

“Section 2. Any funds accruing from the leasing of the mineral rights of the county road system as provided in this act shall be used to build and maintain public boat launching ramps in the Mobile North River Delta Region of Baldwin County from the Bay Bridge North to the Baldwin County line.

“After one (1) such ramp is built such funds may be used to construct, repair, or maintain public launching ramps in any part of

Baldwin County, to provide for the acquisition of property for and the construction, repair and maintenance of public parks, recreational areas, water access areas and access roads thereto within the county, upon official acceptance at the discretion of the county commission. Provided, however, the county commission shall first cause the fund to be restored to the balance, determined by the examiners of public accounts, before transfer of revenues for other purposes, thereafter the fund shall maintain a balance of at least \$50,000, including interest, in the fund designated for construction of roads to public parks."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:53 P.M.

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Act No. 90-659

S. 645—Senator Ellis

### AN ACT

Relating to Shelby County; amending Act No. 79-524, H. 607, 1979 Regular Session, which provides for a personnel board for employees of county law enforcement officers, so as to provide further for the compensation of the members of the board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 6 of Act No. 79-524, H. 607, 1979 Regular Session, is hereby amended to read as follows:

"Section 6. The board shall have the power to hire such clerical assistance and engage such legal counsel of its own choice, as may be necessary to adequately perform its functions.

"For regular meetings of the board, each member shall receive \$60.00 per day, not to exceed \$240.00 per month, plus such mileage as is provided by law to the county commission, and the chairman of the board to receive \$75.00 per day, not to exceed \$300.00 per month, plus such mileage as is provided by law to the county commission. For special hearings or meetings of the board relating to a pending disciplinary action, each member shall receive \$60.00 per day, not to exceed \$240.00 per month and the chairman of the board shall receive \$75.00 per day, not to exceed \$300.00 per month, plus such mileage as is provided by law to the county commission."



**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:54 P.M.

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Act No. 90-660

S. 665—Senator Preuitt

AN ACT

To alter or rearrange the boundary lines of the City of Lincoln, Talladega County, Alabama, so as to include within the corporate limits of said City all territory now within such corporate limits and also certain other territory contiguous thereto in Lincoln, Talladega County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Lincoln, Talladega County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Lincoln and in addition thereto the following described territory, to-wit:

All of Section 13; the Northern Three-quarters (N 3/4) of Section 18; that portion of Section 23 that is eastwardly of the Logan Martin Lake; all of Section 24; and that portion of Section 26 northly of the Logan Martin Lake Reservoir; all in Township 17 South, Range 4 East, Talladega County, Alabama: Less and except the North Three-quarters (N 3/4) of Section 18, Township 17 South, Range 4 East.

**Section 2.** That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:55 P.M.

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Act No. 90-661

S. 668—Senator Preuitt

AN ACT

To alter or rearrange the boundary lines of the City of Lincoln, Talladega County, Alabama, so as to include within the corporate limits of said City all territory now within such corporate limits and also certain other territory contiguous thereto, in Lincoln, Talladega County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Lincoln, Talladega County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Lincoln and in addition thereto the following described territory, to-wit:

All of Section 7; all of Section 18; all in Township 17 South, Range 5 East, Talladega County, Alabama.

The Northwest Quarter of the Southeast Quarter (NW 1/4 of SE 1/4); the Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4); the Northeast Quarter of the Southwest Quarter (NE 1/4 of SW 1/4), all in Section 15, Township 16 South, Range 5 East, Talladega County, Alabama.

All of Section 25; the North Three Quarters of the West Half (N 3/4 of W 1/2) of Section 21, all in Township 16 South, Range 4 East, Talladega County, Alabama.

That portion of Section 22 that is southward of the Logan Martin Lake; that portion of Section 23 that is southward of Logan Martin Lake; the North Half (N 1/2) of Section 26, all in Township 17 South, Range 4 East, Talladega County, Alabama: Less and except the North Three-quarters of the North Half of the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (N 3/4 of N 1/2 of SW 1/4 of NE 1/4 of NE 1/4), the North Three-quarters of the Northwest Quarter of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (N 3/4 of NW 1/4 of SE 1/4 of NE 1/4 of NE 1/4), the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW 1/4 of NE 1/4 of NE 1/4), the West Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter (W 1/2 of NE 1/4 of NE 1/4 of NE 1/4), that portion of the Southwest Quarter (SW 1/4) that is southwardly of Logan Martin Lake, all in Section 23; that portion of Section 22 that is southwardly of Logan Martin Lake; that portion of the North Half (N 1/2) of Section 26 that is southwardly of Logan Martin Lake; All in Township 17 South, Range 4 East.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:57 P.M.

Act No. 90-662

S. 669—Senator Preuitt

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AN ACT

To alter or rearrange the boundary lines of the City of Lincoln, Talladega County, Alabama, so as to include within the corporate limits of said city all territory now within such corporate limits and also certain other territory contiguous thereto, in Lincoln, Talladega County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Lincoln, Talladega County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Lincoln and in addition thereto the following described territory, to-wit:

The North Three Quarters of the West Half (N 3/4 of W 1/2) of Section 31, Township 16 South, Range 5 East, Talladega County, Alabama.

**Section 2.** That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 7:58 P.M.

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Act No. 90-663

S. 14—Senators Goodwin, Bishop, Holmes, Amari, Dial, Denton, Bennett, Ellis, Covington, Foshee, Horn, Parsons, Dixon, Rice, Campbell, Barron, Hale, Corbett, deGraffenried, Bedford, Drinkard, Windom, Manley, Smith (J), Bedsole, Preuitt, Lipscomb, Cabaniss and Smith (J)

## AN ACT

To provide for the ratification of a proposed amendment to the Constitution of the United States prohibiting the desecration of the American flag by burning.

WHEREAS, the 101st Congress of the United States of America proposes adopting a proposition to amend the Constitution of the United States of America prohibiting the desecration of the flag of the United States by burning. Such proposed amendment

shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three-fourths of the several states; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** An amendment to the Constitution of the United States of America prohibiting the desecration of the flag of the United States by burning is hereby ratified.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:00 P.M.

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Act No. 90-664

S. 322—Senator Hale

### AN ACT

To provide that under certain circumstances a person who parks, stands, or operates a motor vehicle in a privately owned parking area provided for the use of customers, commits the offense of criminal trespass by motor vehicle and to provide criminal penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** A person commits the offense of criminal trespass by motor vehicle when the person, after having been requested not to do so by a uniformed law enforcement officer or by a properly identified owner or an authorized agent of the owner, parks or stands an occupied or unoccupied motor vehicle in, or repeatedly drives a motor vehicle through or within, a parking area which is located on privately owned property and is provided by a merchant, a group of merchants, or a shopping center or other similar facility for customers if:

(1) The parking area is identified by at least one sign as specified in this paragraph, and if the parking area contains more than 150 parking spaces, then by at least one such sign for every 150 parking spaces, each such sign shall be substantially as follows:

Notice

Private Property

Entry restricted to our tenants, their customers, employees and invitees. Remaining after proper use is prohibited. Violators may be charged with trespassing.

### Owner of Shopping Center

(2) And the motor vehicle is parked, is standing, or is being operated other than for the purpose of:

(A) Transporting some person to or from the interior of the place of business of a merchant identified by the sign or signs in the parking area or to or from the interior of the shopping center or other facility so identified;

(B) Making use of a telephone, vending machine, automatic teller machine, or other similar facility located in the parking area;

(C) Meeting the requirements of a situation in which it has unexpectedly become impossible or impractical for the motor vehicle to continue to travel on the public roads; or

(D) Carrying out an activity for which express permission has been given by the owner of the parking area or an authorized representative of the owner.

**Section 2.** A person who commits the offense of criminal trespass by motor vehicle shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine:

(1) Not to exceed \$50.00 for the first such offense;

(2) Not to exceed \$100.00 for the second such offense; and

(3) Not to exceed \$150.00 for the third or subsequent such offense.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:02 P.M.

Act No. 90-665

S. 99—Senators Manley and Parsons

### AN ACT

To amend Section 32-7-11, Code of Alabama 1975, which relates to security deposits made with the department of public safety by persons involved in a motor

vehicle accident causing damages to another person, so as to increase the time period that such deposits may be held by the department in order to correspond with the general negligence statute of limitations under Section 6-2-38 (1), Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-7-11, Code of Alabama 1975, is hereby amended to read as follows:

“32-7-11.

“Security deposited in compliance with the requirements of this chapter shall be placed by the director in the custody of the state treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than the period of time provided in section 6-2-38 (1), Code of Alabama 1975, with regard to actions for injury to the person or rights of another not arising from contract, or any successor statute of limitations, for general negligence, following the date of such accident or within the said period of time following the date of deposit of any security under subdivision (3) of section 32-7-8, or to the payment in settlement agreed to by the depositor of a claim or claims arising out of such accident. Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the director has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with subdivision (4) of section 32-7-7, or whenever, after the expiration of the said period of time following the date of the accident or from the date of any security under subdivision (3) of section 32-7-8, the director shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:04 P.M.

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Act No. 90-666

S. 321—Senator Hale

### AN ACT

To amend Section 30-3-5, Code of Alabama 1975, to provide further for venue with respect to petitions respecting any provision of a divorce decree relating to: awarding child custody, visitation rights, child support payments, and/or awards for child post-minority benefits.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 30-3-5, Code of Alabama 1975, is hereby amended to read as follows:

“§30-3-5.

“Notwithstanding any law to the contrary, venue of all proceedings for petitions or other actions seeking modification, interpretation, or enforcement of a final decree awarding custody of a child or children to a parent and/or granting visitation rights, and/or awarding child support, and/or awarding other expenses incident to the support of a minor child or children, and/or granting post-minority benefits for a child or children is changed so that venue will lie in: (1) the original circuit court rendering the final decree; or (2) in the circuit court of the county where both the current custodial parent or, in the case of post-minority benefits, where the most recent custodial parent, that parent having custody at the time of the child’s attaining majority, and the said child or children have resided for a period of at least three consecutive years immediately preceding the filing of the petition or other action. The current or most recent custodial parent shall be able to choose the particular venue as herein provided, regardless of which party files the petition or other action.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:06 P.M.

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Act No. 90-667

S. 575—Senator Windom

### AN ACT

To alter, rearrange and redefine the boundaries and corporate limits of the City of Mobile in Mobile County, Alabama, annexing certain territory, to-wit: Hollingers Island, to the city; to provide for certain city ad valorem tax exemption; to provide for municipal jurisdiction and reapportionment of certain city council district boundaries; and to provide for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundaries and corporate limits of the City of Mobile and the County of Mobile, Alabama, are hereby altered, extended, rearranged, and redefined so as to include within the corporate limits of the municipality and the county boundaries, in

addition to the territory within said corporate limits and boundaries, the following described land situated in said county:

Beginning at the intersection of the southern boundary of the City Limits of Mobile and the east boundary of Mobile County; thence run west along the southern boundary of the City of Mobile to the north bank of Dog River; thence continue westwardly along the north bank of Dog River to its intersection with the east right of way of Dauphin Island Parkway; thence run southwardly along the southerly projection of Dauphin Island Parkway to the south bank of Dog River; thence run S14 degrees 39 minutes West along the east right of way line of Dauphin Island Parkway a distance of 72.31 feet, more or less, to a one-half inch iron rod; thence continue S14 degrees 39 minutes West along said east right of way line a distance of 550.00 feet to a point; thence run S75 degrees 21 minutes East a distance of 200.00 feet to a point; thence run N14 degrees 39 minutes East a distance of 510.00 feet, more or less, to the southern margin of Dog River; thence run eastwardly and southwardly along the southern and western margins respectively of Dog River and Mobile Bay a distance of 1,521.00 feet, more or less, to a point, said point being the intersection of the western margin of Mobile Bay and the north line of Lot 1, Block 1 of Bay Division, Hollingers Island, as recorded in Map Book 3, Pages 109-110, of the records on file in the office of the Judge of Probate Court, Mobile County, Alabama; thence run S79 degrees 15 minutes West along the north line of said lot 1 a distance of 832.17 feet, more or less, to the northwest corner of said lot 1, said corner being the terminus of the east right of way line of the north extension of Bay Road; thence continue S79 degrees 15 minutes West along the terminus of said right of way a distance of 26.89 feet to a point; thence run N75 degrees 01 minutes West along the terminus of said right of way a distance of 25.06 feet to a point, said point being the terminus of the west right of way line of the north extension of said Bay Road; thence run N85 degrees 23 minutes West a distance of 135.00 feet to a point; thence run N14 degrees 39 minutes East a distance of 580.34 feet to a point; thence run N45 degrees 21 minutes West a distance of 247.51 feet to a point; thence run N75 degrees 21 minutes West a distance of 200.00 feet to a point on the east right of way line of Dauphin Island Parkway; thence run N14 degrees 39 minutes East along the east right of way line and east right of way line extended of Dauphin Island Parkway to the north bank of Dog River; thence run westwardly and northwardly along the north and east bank of Dog River and City Limits of Mobile to a point due east of the north bank of Halls Mill Creek; thence run due west to the north bank of Halls Mill Creek; thence run westwardly along the meanderings of the north bank of Halls Mill Creek and City of Mobile Limits to a point on the southeastward right of way line of



Interstate Highway 10; thence run southwestwardly, southwardly, southeastwardly, westwardly, and southwestwardly along the southeastward right of way line of Interstate 10 to a point on the west section line of Section 23, Township 5 South, Range 2 West; thence run south along the west line of Sections 23 and 26, Township 5 South, Range 2 West to the southwest corner of Section 26, Township 5 South, Range 2 West; thence run east along the south line of Section 26, Township 5 South, Range 2 West to a point on the south line of Section 26 a distance of 600 feet west of the southeast corner of Section 26, Township 5 South, Range 2 West said point being the west line of City/County Industrial Park; thence run south a distance of 3,208.98 feet, more or less, to a point; thence run eastwardly along the south line of City/County Industrial Park to the east line of Section 35, Township 5 South, Range 2 West; thence run north along the east line of Section 35, Township 5 South, Range 2 West to the northeast corner of Section 35, Township 5 South, Range 2 West; thence run east along the north line of Section 36, Township 5 South, Range 2 West to its intersection with the centerline of Rangeline Road; thence run southeastwardly along the centerline of Rangeline Road to its intersection with the east line of Section 1, Township 6 South, Range 2 West; thence run along the east line of Sections 1 and 12, Township 6 South, Range 2 West and centerline of Rangeline Road to the south bank of the Industrial Canal; thence run eastwardly, southwestwardly, southeastwardly, northeastwardly, eastwardly, and southeastwardly along the south bank of the Industrial Canal to a point on the west bank of Mobile Bay; thence run due north to a point on the southwestward boundary of the Industrial Canal Ship Channel; thence run southeastwardly along said boundary to a point on the western boundary of the Mobile Ship Channel; thence run east to a point on the east boundary of Mobile County; thence run northward along said east boundary to the southern boundary of the City Limits of Mobile and point of beginning, but excluding the property of any industrial park established pursuant to Sections 11-23-1 through 11-23-8, Code of Alabama 1975; specifically Section 11-23-6, Code of Alabama 1975, prohibits municipal annexation of such parks.

Provided, however, the following territory shall be excluded from the police jurisdiction:

Beginning at the intersection of the west bank of Mobile Bay and the south bank of the Industrial Canal; thence run due north to a point on the southwestward boundary of the Industrial Canal Ship Channel; thence run southeastwardly along said boundary to a point on the western boundary of the Mobile Ship Channel; thence run east to a point on the east boundary of Mobile County; thence run southward along the east boundary of Mobile County to the point of intersection with the southeasterly projection of a line parallel

with and 3 miles southwestward of the Industrial Canal Ship Channel; thence run northwestwardly along said line to its intersection with a curve to the right having a radius of 3 miles (the radius point of said curve being the intersection of the centerline of Rangeline Road and the south bank of the Industrial Canal); thence run along the arc of said curve to its intersection with a curve to the right having a radius of 3 miles (the radius point being the southwest corner of the City/County Industrial Park); thence run along the arc of said curve to its intersection with a curve to the right having a radius of 3 miles (the radius point being the southwest corner of Section 26, Township 5 South, Range 2 West); thence run along the arc of said curve to the existing Police Jurisdiction Limits of the City of Mobile; thence run eastwardly, southeastwardly, and eastwardly along the existing Police Jurisdiction Limits of the City of Mobile to the point of beginning.

Provided further, however, the following territory shall be excluded from any planning commission jurisdiction:

Beginning at the intersection of a line 5 miles southwestward of and parallel to the Industrial Canal Ship Channel and the arc of a curve to the right having a radius of 5 miles (the radius point of said curve being the intersection of the south bank of the Industrial Canal and the centerline of Rangeline Road); thence run along the arc of said curve to its intersection with a curve to the right having a radius of 5 miles (the radius point of said curve being the southwest corner of City/County Industrial Park); thence run along the arc of said curve to the right to its intersection with a curve to the right having a radius of 5 miles (the radius point of said curve being the southwest corner of Section 26, Township 5 South, Range 2 West); thence along the arc of said curve to the right to its intersection with the existing Planning Jurisdiction Limits of the City of Mobile; thence run eastwardly, southeastwardly and eastwardly along the existing limits of the City of Mobile Planning Jurisdiction to the southwestward boundary of the Industrial Canal Ship Channel; thence run southeastward along southwestward boundary of Industrial Canal Ship Channel to the west boundary of Mobile Ship Channel; thence run due east to the east boundary of Mobile County; thence run southward along the east boundary of Mobile County to the point of intersection with the southeasterly projection of a line parallel with and 5 miles south of the Industrial Canal Ship Channel; thence run northwestwardly along said line to the point of beginning.

**Section 2.** A map showing the territory to be annexed into the City of Mobile, Mobile County, is on file in the office of the Judge of Probate of Mobile County and is open to the inspection of the public.

**Section 3.** All territory brought within the corporate limits of the city under the provisions of this act and all property having a situs within such territory shall be exempt from the payment of ad valorem taxes to the city for a period not to exceed five years from the time when such territory is brought within the corporate limits of the city. The period of exemption shall be fixed in the resolution passed by the city council authorized under the provisions of Section 4 of this act.

**Section 4.** All territory brought within the corporate limits of the city under the provisions of this act shall be subject to the laws and ordinances of the city, and the city council shall have and exercise the same jurisdiction over such territory as is exercised over the territory within the corporate limits of the city.

**Section 5.** Within six months following annexation of territory to the corporate limits of the city, the mayor shall file with the city council a report containing a recommended plan for the reapportionment of the city council district boundaries to comply with the following specifications:

(1) Each district shall be formed of contiguous, and to the extent reasonably possible, compact territory, and its boundary lines shall be the centerlines of streets or other well-defined boundaries;

(2) Each district shall contain as nearly as is reasonable the same population;

(3) The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance and considered by the city council as other ordinances are considered. Once filed with the city clerk, the report shall be treated as an ordinance introduced by a city council member;

(4) The city council shall enact a redistricting ordinance within six months after receiving such report. If the city council fails to enact the redistricting ordinance within the said six months, the redistricting plan submitted by the mayor shall become effective without enactment by the city council, as if it were a duly enacted ordinance; and

(5) Such redistricting ordinance shall apply to the first regular election held more than six months after its becoming effective and to all municipal elections, regular or special, held after the first regular election. No incumbent city council member shall be deprived of his or her unexpired term of office because of such redistricting.

**Section 6.** The substantive provisions of this act shall become operative only if the act is approved by the qualified electors who reside within the territory above described voting in a referendum

election to be held on the day designated by the probate judge of Mobile County. The notice of the election shall be given by the probate judge of Mobile County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 3, Chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge. The question shall be, "shall the adoption of Act No. \_\_\_\_\_, H.B. \_\_\_\_\_, of the 1990 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Mobile in Mobile County, relating to Hollingers Island be approved." The City of Mobile shall pay all of the costs and expenses incident to the election. If a majority of the votes cast in the election are "Yes," the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved April 25, 1990

Time: 8:08 P.M.

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Act No. 90-668

S. 15—Senator Figures

### AN ACT

Providing for special license plates for motor vehicles that feature the words "Helping Schools"; prescribing the costs and manner of issuance of such plates and providing for disposition of the revenues derived from sales of such plates.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) Owners of motor vehicles who are residents of Alabama, upon application to the probate judge or commissioner of licenses, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles and payment of the regular license fee for tags or plates as provided by law for private passenger or pleasure motor vehicles, and the payment of an additional

annual fee of \$15.00, shall be issued license tags or plates which shall bear the words "Helping Schools."

(b) Such tags shall be issued, printed and processed in the same manner as other personalized tags are in chapter 6 of Title 32 of the Code of Alabama 1975. Such tags shall be valid for five years and shall be replaced at the end of the period with either conventional tags or other personalized tags, or with new "Helping Schools" tags. Payment of the required motor vehicle license fees and taxes for the years during which a new vehicle license plate is not issued shall be evidenced as provided for in section 32-6-63 of the Code of Alabama 1975. The state department of revenue shall design, or have designed, the "Helping Schools" tag in compliance with all laws and regulations.

**Section 2.** The net proceeds of the \$15.00 additional revenues derived from sales of "Helping Schools" tags as provided for in this act, less administrative costs including the department of revenue's cost of production of such tags, shall be distributed by the probate judge or license commissioner to, as nearly as practicable, the school district in which said funds were generated to be used for the purchase of classroom supplies and equipment in grades K through twelve of the public schools of such school district.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective on October 1, 1990.

Approved April 25, 1990

Time: 8:10 P.M.

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Act No. 90-669

S. 616—Senator Figures

### AN ACT

Relating to Mobile County, providing further for the compensation of the law librarian.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Mobile County, in addition to any other compensation heretofore provided by law, the county law librarian is hereby authorized to receive a salary supplement of \$9,132.00 per

annum upon approval by the county commission. Said salary supplement shall be paid in equal monthly installments out of the county general fund.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:12 P.M.

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Act No. 90-670

H. 960—Rep. Black

### AN ACT

Providing for a local salary supplement for the district judge of Greene County; prescribing the methods for determining and funding the local salary supplement provided by this act for said judge; and providing for payment from the county funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The district judge of Greene County who has served as a district judge in said county for less than six consecutive years shall be eligible for a local salary supplement in an amount equal to ten percent (10%) of the annual salary paid to said judge by the state. Such local salary supplement shall be paid from the general fund of Greene County and shall be paid in equal monthly installments.

**Section 2.** The district judge of Greene County, currently serving on the effective date of this act, shall receive a salary supplement that when added to the expense allowance provided by Act No. 89-782, S. 563, 1989 Regular Session, will equal to ten percent (10%) of the annual salary paid to said judge by the state. This provision of this act shall terminate on May 30, 1991, and thereafter the district judge of Greene County shall be subject to the provisions of Section 2 of said act. Said salary supplement shall be payable from the Greene County general fund.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved April 25, 1990

Time: 8:15 P.M.

Act No. 90-671

H. 105—Rep. Zoghby

## AN ACT

To amend Section 40-23-4, Code of Alabama 1975, so as to exempt from the gross receipts tax in Section 40-23-2(2), all bingo games and operations which are conducted in compliance with validly enacted legislation authorizing the conduct of the games and operations, and which comply with the distribution requirements of applicable local laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-4, Code of Alabama 1975, is hereby amended to read as follows:

“§40-23-4.

“(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable

hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

“(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of wood residue, coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships, vessels, towing vessels, or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or other watercraft (herein for purposes of this exemption being referred to as ‘vessels’) engaged in foreign or international commerce or in interstate commerce; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of 50 tons burden or less.

“For purposes of this subdivision, it shall be presumed that vessels engaged in the transportation of cargo between ports in the



state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states are engaged in foreign or international commerce or interstate commerce, as the case may be. For the purposes of this subdivision, the engaging in foreign or international commerce or interstate commerce shall not require that the vessel involved deliver cargo to or receive cargo from a port in the state of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states shall be engaged in foreign or international commerce or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) the vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels which are engaged in foreign or international commerce or interstate commerce shall be deemed for the purposes of this subdivision to remain in such commerce while awaiting or under repair in a port of the state of Alabama if such vessel returns after such repairs are completed to engaging in foreign or international commerce or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in traveling to or from conducting such tests or evaluations shall be deemed to be engaged in international or foreign commerce. For purposes of this subdivision, proof that fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce may be accomplished by the merchant or seller securing the duly signed certificate of the vessel owner, operator or captain or their respective agent on a form prescribed by the department that the fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce. Any person filing a false certificate shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each false certificate filed shall constitute a separate offense. Any person filing a false certificate shall be liable to the department for all taxes imposed by this division upon the merchant or seller, together with any interest or penalties thereon, by reason of the sale or sales of fuel and supplies applicable to such false certificate. If a merchant or seller of fuel and supplies secures the certificate herein mentioned, properly completed, such merchant or seller shall not be liable for the taxes imposed by this

division, if such merchant or seller had no knowledge that such certificate was false when it was filed with such merchant or seller.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels and barges of more than 50 tons burden, when sold by the manufacturers or builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels or other watercraft of more than 50 tons burden.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipalities of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control reduction or elimination of air and water pollution.

“(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

“(18) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

“(19) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce hospital and Partlow state school for mental deficient at

Tuscaloosa, Alabama, and Searcy hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

“(20) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products, including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

“(21) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis, livestock and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

“(22) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

“(23) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enters into and becomes a component part of such fabricated steel tube sections of said tunnel.

“(24) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general

public for an admission charge. The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

“(25) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term ‘herbicides,’ as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

“(26) The Alabama chapter of the cystic fibrosis research foundation and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

“(27) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

“The words ‘commercial fishing vessels’ shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(28) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(29) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feed for fish, livestock and poultry, and in the addition to the exemptions provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feed.

“(30) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or municipal sales tax law. The exemption provided in this section shall not apply

to any medicine purchased in any manner other than as is herein provided.

"For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

"a. The name and claim number as shown on a 'Medicare' card issued by the United States social security administration.

"b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

"(31) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock or floral products.

"(32) The gross receipts of sales of the following items or materials which are necessary in the farm-to-market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed) and tomato boxes used in shipments to customers.

"(33) The gross proceeds from the sale of liquefied petroleum gas sold to be used for agricultural purposes.

"(34) The gross receipts of sales from state nurseries of forest tree seedlings.

"(35) The gross receipts of sales of forest tree seed by the state.

"(36) The gross receipts of sales of *Lespedeza bicolor* and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.

"(37) The gross receipts of any aircraft manufactured, sold and delivered in this state if said aircraft are not permanently domiciled

in Alabama and are removed to another state within three days of delivery.

“(38) The gross proceeds from the sale or sales of all diesel fuel used for off-highway agricultural purposes.

“(39) The gross proceeds from sales of admissions to any sporting event which:

“a. takes place in the state of Alabama on or after January 1, 1984, regardless of when such sales occur; and

“b. is hosted by a not-for-profit corporation organized and existing under the laws of the state of Alabama; and

“c. determines a national championship of a national organization, including but not limited to the professional golfers association of America, the tournament players association, the United States golf association, the United States tennis association, and the national collegiate athletic association; and

“d. has not been held in the state of Alabama on more than one prior occasion, provided, however, that for such purpose the professional golfers association championship, the United States open golf championship, the United States amateur golf championship of the United States golf association, and the United States open tennis championship shall each be treated as a separate event.

“(40) The gross receipts from the sale of any aircraft and replacement parts, components, systems, supplies and sundries affixed or used on said aircraft and ground support equipment and vehicles used by or for the aircraft to or by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub operation within this state’ shall be construed to have all of the following criteria:

“a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

“b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“(41) The gross receipts from the sale of hot or cold food and beverage products sold to or by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub

operation within this state' shall be construed to have all of the following criteria:

"a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

"b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

"(42) The gross proceeds of the sale or sales of the following:

"a. Drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"b. Tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"c. Fuel and supplies for use or consumption aboard boats, ships, aircraft and towing vessels when used exclusively in transporting persons or property between a point in Alabama and a point or points in offshore federal waters for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"d. Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state and that is, on completion, removed forthwith from this state.

"The delivery of items exempted by this subdivision to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

"The shipment to a place in this state of equipment exempted by this subdivision for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This subdivision applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from this state.

"(43) The gross receipts derived from all bingo games and operations which are conducted in compliance with validly enacted legislation authorizing the conduct of such games and operations, and which comply with the distribution requirements of the applicable local laws; provided that the exemption from sales taxation granted

by this subdivision shall apply only to gross receipts taxable under Section 40-23-2(2) of the Code of Alabama 1975. It is further provided that this exemption shall not apply to any gross receipts from the sale of tangible personal property, such as concessions, novelties, food, beverages, etc. "The exemption provided for in this section shall be limited to those games and operations by organizations which have qualified for exemption under the provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or (19)," or which are defined in 26 U.S.C. §501 (d).

"(b) Any violation of any provision of this section shall be punishable in a court of competent jurisdiction by a fine of not less than \$500.00 and no more than \$2,000.00 and imprisonment of not less than six months nor more than one year in the county jail."

**Section 2.** This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:13 P.M.

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Act No. 90-672

S. 206—Senator Foshee

### AN ACT

To create the Division of Risk Management within the Department of Finance to administer insurance programs for the state, except for colleges and universities, county and city boards of education, and the State Docks, in order to reduce costs and minimize losses through appropriate programs, to administer the State Insurance Fund and the General Liability Trust Fund, and to create the position of risk manager.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There shall be created within the Department of Finance the Division of Risk Management.

**Section 2.** The function, powers and duties of the Division of Risk Management shall be as follows:

a. To carry out the provisions of the 1975 Code of Alabama Section 41-15-1 et seq., relating to the State Insurance Fund and Section 36-1-6.1 relating to the State Liability Insurance Fund.

b. To assist and advise the Finance Director on insurance and bonding matters;

c. To provide information and recommendations to the Legislature when requested;



d. To provide programs and/or guidelines leading to premium and financial risk reductions, to include collection and investment of premiums, rate making, and claims administration.

e. To make, with the approval of the Finance Director, rules and regulations necessary to implement the provisions of this Act.

**Section 3.** The division of risk management shall have the authority to institute, manage and administer programs of insurance, not specifically enumerated herein and which do not conflict with existing laws, upon a determination by the director of finance and the governor that such insurance program or programs serve the best interests of the state.

The provisions of this act shall not apply to: universities and colleges; the State Docks; or county and city boards of education, except as is already required by the 1975 Code of Alabama Section 41-15-1 et seq., relating to the State Insurance Fund. Provided however that universities and colleges may elect to participate in, and be covered by, such risk management program. A university or college may elect to participate in and be covered by such program by giving notice thereof to the Division of Risk Management not less than six (6) months prior to the beginning of the fiscal year in which such university or college desires to begin participation in and coverage by such program. Any university or college which elects to be covered by such risk management program may terminate such participation and coverage by giving notice thereof to the Division of Risk Management not less than six (6) months prior to the beginning of the fiscal year such university or college desires to terminate such participation and coverage.

**Section 4.** There shall be no commingling of funds between various self-insured programs.

**Section 5.** The Division of Risk Management shall be headed by and under the supervision, direction and control of an officer who shall be designated "risk manager." The risk manager shall be appointed and compensated, subject to the provisions of the state merit system, by the Director of Finance, with the approval of the Governor. Salary of said risk manager shall be paid from self-insured programs on a basis determined by the Finance Director.

**Section 6.** The Director of Finance may employ and compensate such additional employees as may be needed, in accordance with the merit system.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 25, 1990

Time: 8:15 P.M.

Act No. 90-673

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H.J.R. 585—Reps. Grayson, Butler, Freeman, Hall, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Dillard, Drake, Escott, Flowers, Ford, Frazier, Fuller, Gaston, Goodwin, Gray, Grouby, Gullatt, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Lindsey, Logan, Marietta-Lyons, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Moon, Newman, Newton (C), Newton (D), Parker, Payne, Penry, Perdue, Petelos, Poole, Rains, Richardson, Rogers, Sanderford, Seibels, Slaughter, Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White (F), White (G), White (L), Williams, Willis, Wright and Zoghby

#### HOUSE JOINT RESOLUTION

COMMENDING DR. RICHARD DAVID MORRISON, PRES-  
IDENT EMERITUS OF ALABAMA A&M UNIVERSITY.

WHEREAS, this legislature takes note of the many accomplishments of Dr. Richard David Morrison, President Emeritus of Alabama A&M University who served as the fifth president of said distinguished educational institution; and

WHEREAS, Dr. Morrison was encouraged by Dr. George Washington Carver to attend Tuskegee Institute where as a protege of Dr. Carver he graduated with honors with a Bachelor of Science degree in Agriculture; and

WHEREAS, Dr. Morrison also holds a Master's degree from Cornell University, a Ph.D. degree from Michigan State University and has received an honorary Doctor of Laws degree from his alma mater, Tuskegee University, as well as from Stillman College of Tuscaloosa, Alabama; and

WHEREAS, during Dr. Richard Morrison's administration as president of Alabama A&M University, the university experienced tremendous growth in enrollment, expansion in campus size and expansion in curricula; and

WHEREAS, Dr. Morrison was instrumental in the passage of legislation in Congress through Public Law 95-113, which provides permanent funding from the U. S. Department of Agriculture for cooperative extension and research for 1890 Land-Grant Colleges and Tuskegee University; and

WHEREAS, Dr. Morrison has been affiliated with and served on the board of directors of many organizations including the YMCA, Harris Home for Children, Huntsville-Madison County Chamber of Commerce, Marshall Space Flight Space Center Advisory Committee, Health Careers Council of Alabama, Tennessee Valley Council of Boy Scouts of America, Citizens Advisory Board of Health and Environmental Quality, Institute for Services to Education, Alabama Center for Higher Education, USDA Agricultural Mechanization Task Force, Tuskegee Institute (University) Board of Trustees, National Association of State Universities and Land-Grant Colleges, and was instrumental in obtaining funds not only for Alabama A&M University but also for Tuskegee University and other predominantly Black Land-Grant Colleges throughout the nation; and

WHEREAS, honors received include Tuskegee University "Alumnus of the Year," Sanford Foundation Short-Term Leave Grant recipient, Honorary American Farmer's Degree by National Future Farmers of America, Distinguished Alumni Award by Michigan State Alumni Association, Delta Tau Kappa Social Science Honor Society honorary member, Alpha Zeta Agricultural Fraternity, listed in Who's Who in America, and has received the Huntsville Black Achievement Award for extraordinary services in the Huntsville, Alabama, community; and

WHEREAS, Dr. Morrison was called on for his expertise by the U. S. Department of Agriculture and the U. S. Department of State concerning matters of national and international import; and

WHEREAS, Dr. Morrison retired from Alabama A&M University in 1984, after 47 years of service, 22 of which he served as its president, after which time in 1985, Dr. Morrison was named President Emeritus; and

WHEREAS, in 1989, Dr. Morrison became an inductee into the George Washington Carver Public Service Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body wishes to express its deepest appreciation to Dr. Richard David Morrison for his many contributions to Alabama A&M University, to his state and to this nation.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Dr. Morrison with our best wishes for many years of enjoyable retirement which he so richly deserves.

Approved April 30, 1990

Time: 4:30 P.M.

Act No. 90-674

H. 592—Reps. Box, Hill, Butler, Fuller, Walker, Bugg, Knight, Hooper, Mikell, Haynes, Carter, Dillard, Kennedy, Black, Kvalheim, Zoghby, Beasley, Petelos, Higginbotham, Buskey (JL), Johnson (RG), Newton (C), Flowers, McMillan, Blakeney, Starkey, Clay, Richardson, Grouby, Perdue, White (L), Laird, Breedlove, Penry, Gray and Clark (J)

#### AN ACT

To amend Chapter 15 of Title 12, Code 1975, to provide that this chapter shall be known as the Alabama Juvenile Justice Act, to provide a purpose clause; to amend the definition of child set out in §12-15-1(3), Code 1975; to amend the definition of delinquent act in §12-15-1(8), Code 1975; to amend §12-15-1(8), Code 1975, concerning transfer of traffic cases; to amend Section 12-15-60, Code of Alabama 1975, relating

to 72-hour detention hearing to provide that the court shall not accept a plea of guilt or admission of allegations of a petition in a case where a child will be transferred for prosecution as an adult; to amend §12-15-61, Code 1975, to further provide for the detention of a child in an adult facility; to empower juvenile courts to order law enforcement officials to provide security and transportation services, and to require the department of youth services to accept a committed child within 7 days; to amend §§12-15-30 and 12-15-65, Code 1975, to permit petitions for withdrawal from school for children 16 years of age or older; to amend §12-15-31, Code 1975, to make parents or guardians parties to juvenile actions; to amend §12-15-33, Code 1975, regarding transfer of cases to juvenile court from other courts; to amend §12-15-34, Code 1975, regarding transfer of cases from juvenile court to criminal court and place of detention; to amend §12-15-65, Code 1975, to provide standard of proof in termination of parental rights actions; to amend §12-15-71, Code 1975, to provide random drug screens, to provide a rebuttable presumption in dependency actions for nonremoval of custody of parents solely because of lack of emergency housing, to provide that restitution may be ordered against a child or parent, to direct parents or custodians to perform acts necessary for the best interests of the child in cases involving children in need of supervision and delinquent children, to provide child support orders be entered in conformity with child support guidelines, to create a new classification of and disposition for the multiple needs child, to establish a new status of juvenile offender called serious juvenile offender and to further provide for the services and treatment of children; to amend §12-15-76, Code 1975, concerning law enforcement agencies investigating abuse cases; to amend §§12-15-100 and 12-15-101, Code 1975, to further provide for access to juvenile records; and to establish the Alabama juvenile justice coordinating council and the county juvenile justice coordinating council and to establish the juvenile justice coordinating fund and to provide for appropriations to said fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Alabama Juvenile Justice Act Purpose Clause:

This Act shall be known as the Alabama Juvenile Justice Act. The purpose of Chapter 15 of Title 12 is to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court, while acknowledging the responsibility of the juvenile court to preserve the public peace and security.

In furtherance of this purpose, the following goals have been established for the juvenile court:

(1) To preserve and strengthen the child's family whenever possible, including improvement of home environment;

(2) To remove the child from the custody of his or her parents only when it is judicially determined to be in his or her best interest or for the safety and protection of the public;

(3) To reunite a child with his parents as quickly and as safely as possible when the child has been removed from his parents' custody;

(4) To secure for any child removed from parental custody the necessary treatment, care, guidance and discipline to assist him or her in becoming a responsible productive member of society;

(5) To promote a continuum of services for children and their families from prevention to aftercare, considering wherever possible, prevention, diversion, and early intervention;

(6) To promote the use of community based alternatives as deterrents to acts of juvenile delinquency and as least restrictive dispositional alternatives;

(7) To hold a child found to be delinquent accountable for his or her actions to the extent of the child's age, education, mental and physical condition, background and all other relevant factors and to provide a program of supervision, care, and rehabilitation, including rehabilitative restitution by the child to the victim of his delinquent acts to the extent that the child is reasonably able to do so;

(8) To achieve the foregoing goals in the least restrictive setting necessary, with a preference at all times for the preservation of the family and the integration of parental accountability and participation in treatment and counseling programs;

Judicial procedures through which these goals are accomplished will assure the parties a fair hearing where their constitutional and other statutory rights are recognized and enforced.

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control, preferably in his own home, necessary for the child's welfare and the best interest of the state.

**Section 2.** Section 12-15-1, Code of Alabama 1975, is hereby amended to read as follows:

**Section 12-15-1. Definitions.**

When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **ADULT.** An individual 19 years of age or older.

(2) **AFTERCARE.** Such conditions and supervision as the court orders after release of legal custody.

(3) **CHILD.**

Such term means an individual under the age of 18, or under 19 years of age and before the juvenile court for a matter arising before that individual's 18th birthday.

(4) **CHILD IN NEED OF SUPERVISION.** A child who:

a. Being subject to compulsory school attendance, is habitually truant from school; or

b. Disobeys the reasonable and lawful demands of his parents, guardian or other custodian and is beyond their control; or

c. Has committed an offense established by law but not classified as criminal or one applicable only to children; and

d. In any of the foregoing, is in need of care or rehabilitation.

(5) COMMIT. Transfer legal and physical custody.

(6) CONSENT DECREE. An order, entered after the filing of a delinquency petition and before the entry of an adjudication order, suspending the proceedings and continuing the case of the child under supervision in the child's own home, under terms and conditions agreed to by all parties concerned.

(7) COURT or JUVENILE COURT. The juvenile division of the district court or the juvenile division of the circuit court as established by this chapter.

(8) DELINQUENT ACT. An act committed by a child that is designated a violation, misdemeanor or felony offense under the law of this state or of another state if the act occurred in another state or under federal law or a violation of a municipal ordinance; provided, however, that traffic offenses, other than those charged pursuant to §32-5A-191 and committed by one 16 years of age or older, shall not fall within the jurisdiction of the juvenile court. Provided, further, such term shall not include any criminal act, offense or violation committed by a child who has previously been transferred for criminal prosecution pursuant to §12-15-34 and convicted or adjudicated a youthful offender on the criminal charge.

(9) DELINQUENT CHILD. A child who has committed a delinquent act and is in need of care or rehabilitation.

(10) DEPENDENT CHILD. A child:

a. Who, for any reason is destitute, homeless or dependent on the public for support; or

b. Who is without a parent or guardian able to provide for his support, training or education; or

c. Whose custody is the subject of controversy; or

d. Whose home, by reason of neglect, cruelty or depravity on the part of his parent, parents, guardian or other person in whose care he may be, is an unfit and improper place for him; or

e. Whose parent, parents, guardian or other custodian neglects or refuses, when able to do so or when such service is offered without charge, to provide or allow medical, surgical or other care necessary for such child's health or well-being; or

f. Who is in such condition or surroundings or is under such improper or insufficient guardianship or control as to endanger his morals, health or general welfare; or

g. Who has no proper parental care or guardianship; or

h. Whose parent, parents, guardian or custodian fails, refuse or neglect to send such child to school in accordance with the terms of the compulsory school attendance laws of this state; or

i. Who has been abandoned by his parents, guardian or other custodian; or

j. Who is physically, mentally or emotionally abused by his parents, guardian or other custodian or who is without proper parental care and control necessary for his well being because of the faults or habits of his parents, guardian or other custodian or their neglect or refusal, when able to do so, to provide them; or

k. Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child; or

l. Who has been placed for care or adoption in violation of the law; or

m. Who for any other cause is in need of the care and protection of the state; and

n. In any of the foregoing, is in need of care or supervision.

(11) **DETENTION CARE.** The temporary care of delinquent children or children alleged to be delinquent in secure custody pending court disposition or transfer to a residential facility or further care of a child adjudicated a delinquent.

(12) **GUARDIAN AD LITEM.** A licensed lawyer appointed by a court to defend or represent a child in any action to which such child may be a party.

(13) **INTAKE OFFICE.** The office in the probation service or designee of the judge with the duty of primary contact with the law enforcement agency and complainants of children coming under the jurisdiction of the court.

(14) **JUDGE.** Judge of the juvenile court as prescribed by this chapter.

(15) **LAW ENFORCEMENT OFFICER.** Any person, however denominated, who is authorized by law to exercise the police powers of the state or local governments.

(16) **LEGAL CUSTODIAN.** A person, agency or department, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.



(17) **LEGAL CUSTODY.** A legal status created by court order which vests in a custodian the right to have physical custody of the child and to determine where and with whom he shall live within the state and the right and duty to protect, train and discipline him and to provide him with food, shelter, clothing, education and ordinary medical care, all subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the juvenile court.

(18) **MINOR.** An individual who is under the age of 19 years and who is not a "child" within the meaning of this chapter.

(19) **MULTIPLE NEEDS CHILD.** Children coming to the attention of the court whose needs require the services of two or more of the following entities: department of youth services, public school system (services for exceptional needs), department of human resources, department of public health, juvenile court probation services or department of mental health and mental retardation.

(20) **PROBATION.** The legal status created by court order following an adjudication of delinquency or in need of supervision whereby a child is permitted to remain in a community subject to supervision and return to court for violation of probation at any time during the period of probation.

(21) **PROTECTIVE SUPERVISION.** A legal status created by court order following an adjudication of dependency whereby a child is permitted to remain in his home subject to supervision and to return to the court for violation of protective supervision at any time during the period of protective supervision.

(22) **RESIDENTIAL FACILITY.** A dwelling, other than a detention or shelter care facility, providing living accommodations, care, treatment and maintenance for children, including institutions, foster family homes, group homes, half-way houses and forestry camps, and, where not operated by a public agency, licensed or approved to provide such care.

(23) **RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES.** Those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation and the responsibility for support.

(24) **SHELTER CARE.** The temporary care of children in group homes, foster care or other nonpenal facilities.

**Section 3.** Section 12-15-13, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-13. Causing, etc., of delinquency, dependency or need of supervision of children.

(a) It shall be unlawful for any parent, guardian or other person to willfully aid, encourage or cause any child to become or remain delinquent, dependent or in need of supervision or by words, acts, threats, commands or persuasions, to induce or endeavor to induce, aid or encourage any child to do or perform any act or to follow any course of conduct which would cause or manifestly tend to cause such child to become or remain delinquent, dependent or in need of supervision or by the neglect of any lawful duty or in any other manner contribute to the delinquency, dependency or need of supervision of a child. The employment of any child in violation of any of the provisions of the child labor law, or permitting, conniving at, aiding or abetting such employment shall be held to be encouraging, causing and contributing to the delinquency, dependency or need of supervision of such child. Failure on the part of any parent, guardian or other person having custody of the child to cause such child to attend school as required by the compulsory attendance law shall be held to be encouraging, causing and contributing to the delinquency, dependency or need of supervision of such child.

(b) Whenever, in the course of any proceedings under this chapter or when, by affidavit as provided in this subsection, it shall appear to the juvenile court that a parent, guardian or other person having custody, control or supervision of a child or any other person not standing in any such relation to such child has aided, encouraged or caused such child to become delinquent, dependent or in need of supervision, as defined in this chapter, or has by words, acts or omission contributed thereto or has, by threats, commands or persuasion, induced or endeavored to induce, aided or encouraged such child to do or perform any act or to follow any course of conduct which would cause or manifestly tend to cause such child to become or remain delinquent, dependent or in need of supervision, the court shall, for the protection of such child from such influences, have jurisdiction in such matters, as provided in this section. The court shall cause such parent, guardian or other person to be brought before it upon either summons or a warrant, affidavit of probable cause having first been made.

(c) Whoever violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or sentenced to hard labor for the county for a period not to exceed 12 months or both.

(d) Upon conviction, the court shall have the power to suspend any sentence, remit any fine or place such person on probation under such orders, directives or conditions for his discipline and supervision as the court deems fit.

**Section 4.** Section 12-15-30, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-30. Original jurisdiction generally—Children.

(a) The juvenile court shall exercise exclusive original jurisdiction of: proceedings in which a child is alleged to be delinquent, dependent or in need of supervision.

(b) The court shall also exercise exclusive original jurisdiction of the following proceedings, which shall be governed by the laws relating thereto:

(1) Proceedings to determine custody or to appoint a legal custodian or guardian of the person of a child when the child is otherwise before the court. This provision, however, shall not be construed to deprive other courts of the right to determine the custody or guardianship of the person of children when such custody or guardianship is incidental to the determination of cases pending in those courts. Such courts, however, may certify said questions to the juvenile court for hearing and determination or recommendation;

(2) Removal of disabilities of nonage, including judicial consent to marriage, employment, withdrawal from school, or enlistment when such consent is required by law;

(3) Proceedings under the Interstate Compact on Juveniles;

(4) Proceedings for the commitment of a mentally ill or mentally retarded child;

(5) Proceedings for the adoption of a child when such proceedings have been removed from probate court on motion of any party to the proceedings; and

(6) Termination of parental rights.

(c) The court shall have original jurisdiction in proceedings:

(1) Concerning any child:

a. Who is in a situation subjecting him to physical, mental or emotional abuse or is in clear and present danger of suffering lasting or permanent damage; or

b. Who requires emergency medical treatment in order to preserve his life, prevent permanent physical impairment or deformity or alleviate prolonged agonizing pain;

(2) Where it is alleged that a child's rights are improperly denied or infringed in proceedings resulting in suspension, expulsion or exclusion from a public school.

**Section 5.** Section 12-15-31, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-31. Same—Minors and adults.

The court shall have exclusive original jurisdiction:

(1) To try any minor or adult charged with:

a. Aiding, encouraging or causing any child to become or remain delinquent, in need of supervision or dependent;

b. Disregarding or failing to obey any lawful order made by the judge of the juvenile court or interfering with the custody of any child under the jurisdiction of the juvenile court;

c. Interfering with the custody of or removal or attempting to remove any dependent or delinquent child or one in need of supervision or one so alleged to be or any child whose custody is the subject of controversy in said court or who is in the custody of the court or of a probation officer or any such other officer or person designated by the court as a special officer, or any such child who has been by said court committed to any person, persons, institutions, associations, corporation, agency, the department of youth services or the department of human resources under the terms of this chapter;

d. Knowingly interfering with, opposing or otherwise obstructing any probation officer or representative of the department of human resources in the performance of his duties under this chapter; or

e. Any offenses proscribed in §§12-15-100, 12-15-101 or 12-15-102;

(2) In proceedings to establish paternity of a child born out of wedlock;

(3) To try any minor or adult charged with desertion and non-support in violation of law;

(4) In proceedings for the commitment of a mentally ill or mentally retarded minor.

(5) To make parents or guardians of a child parties to all juvenile court actions.

**Section 6.** Section 12-15-33, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-33. Transfer of cases to juvenile court from other courts.

(a) Except in the case of a child who has previously been transferred for criminal prosecution and convicted on the criminal charge pursuant to §12-15-34, if it shall be ascertained during the pendency of a criminal or quasi-criminal charge that a defendant was a child, as defined in this chapter, at the time of the alleged offense, that court, which shall have the duty to ascertain such age, shall forthwith transfer the case, together with all the papers, documents and transcripts of any testimony connected therewith, to the juvenile court. The transferring court shall order that the juvenile be taken forthwith to the place of detention designated by the juvenile court or to the juvenile court itself or shall release him to the custody of his parent or guardian or other person legally responsible for him or under his own recognizance, to be brought before the court at a time designated by it. The accusatory pleading may serve in lieu of a petition in the juvenile court, unless that court directs the filing of a petition. The juvenile court shall then proceed as provided in this chapter. All action taken by the court prior to transfer of the case shall be deemed null and void unless the juvenile court transfers under §12-15-34.

**Section 7.** Section 12-15-34, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-34. Transfer of cases from juvenile court to criminal court.

(a) The prosecutor may, before a hearing on the petition on its merits and following consultation with probation services, file a motion requesting the court to transfer the child for criminal prosecution, if the child was 14 or more years of age at the time of the conduct charged and is alleged to have committed an act which would constitute a crime if committed by an adult.

(b) The court shall conduct a hearing on all such motions for the purpose of determining whether it is in the best interest of the child or the public to grant the motion. If the court so finds and there are no reasonable grounds to believe he is committable to an institution or agency for the mentally retarded or mentally ill, it shall order the case transferred for criminal prosecution.

(c) When there are grounds to believe that the child is committable to an institution or agency for the mentally retarded or mentally ill, the court shall proceed as provided in section 12-15-70.

(d) Evidence of the following and other relevant factors shall be considered in determining whether the motion shall be granted:

- (1) The nature of the present alleged offense;
- (2) The extent and nature of the child's prior delinquency record;

(3) The nature and past treatment efforts and the nature of the child's response to such efforts;

(4) Demeanor;

(5) The extent and nature of the child's physical and mental maturity; and

(6) The interests of the community and of the child requiring that the child be placed under legal restraint or discipline.

(e) Prior to a hearing on the motion by the prosecutor, a study and report to the court, in writing, relevant to the factors listed in subsection (d) of this section shall be made by probation services.

(f) When a person is transferred for criminal prosecution, the court shall set forth in writing its reasons for granting the motion, which shall include a finding of probable cause for believing that the allegations are true and correct.

(g) The finding of probable cause by the juvenile court shall preclude the necessity for a preliminary hearing subsequent to the transfer of the case for criminal prosecution, and the court having jurisdiction of the offense or offenses charged may exercise any authority over the case and the child, subsequent to the transfer, which is otherwise applicable to cases involving adult offenders under provisions of laws or rules of procedure adopted by the supreme court.

(h) A conviction or adjudication as a youthful offender following the transfer of a child for criminal prosecution as provided in this section shall terminate the juvenile court's jurisdiction over that child with respect to any future criminal acts, offenses or violations of any nature and with respect to any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction. Any such pending or future criminal acts committed by the child shall be prosecuted as other criminal charges are prosecuted; provided, however, that the juvenile court shall exercise jurisdiction over the child for the purpose of obtaining verification of a previous conviction or adjudication as a youthful offender after being transferred for prosecution as an adult, and for the purpose of authorizing release pending trial on bond or as otherwise provided by law. Termination of the juvenile court's jurisdiction over the child with respect to future criminal charges and pending allegations of delinquency, as provided herein, shall not affect the juvenile court's jurisdiction over the child with respect to any other matter provided in this chapter, specifically including any prior allegations of delinquency which, at the time of the criminal conviction, has been disposed of by the juvenile court either through informal adjustment, consent decree or adjudication. The juvenile court is specifically

authorized, to the extent practicable, to continue exercising its jurisdiction over the child with respect to such previously disposed delinquency after the termination of its jurisdiction with respect to other criminal charges.

**Section 8.** Section 12-15-60, Code of Alabama 1975, is hereby amended to read as follows:

“Section 12-15-60. (a) When a child is not released from detention or shelter care as provided in section 12-15-58, a petition shall be filed and a hearing held within 72 hours, Saturdays, Sundays and holidays included, to determine whether continued detention or shelter care is required.

(b) Notice of the detention or shelter care or other care hearing, either oral or written, stating the time, place and purpose of the hearing and the right to counsel shall be given to the parent, guardian or custodian if they can be found and to the child if such child is over 12 years of age or if delinquency is alleged. In every case of a dependent child, the department of human resources shall be notified.

(c) At the commencement of the detention or shelter or other care hearing, the court shall advise the parties of the right to counsel and shall appoint counsel as required. The parties shall be informed of the child's right to remain silent with respect to any allegation of delinquency. They shall also be informed of the contents of the petition and shall, except as provided herein, be given an opportunity to admit or deny the allegations of the petition. Prior to the acceptance of an admission of the allegations of the petition, the court shall (1) verify if the child was previously convicted or adjudicated a youthful offender pursuant to section 12-15-34(h) or (2) rule on any motion of the prosecutor requesting the court to transfer the child for criminal prosecution. The juvenile court shall not accept a plea of guilt or an admission to the allegations of the petition in any case in which the child will be transferred for prosecution as an adult, either by grant of the prosecutor's motion to transfer or pursuant to section 12-15-34(h).

(d) All relevant and material evidence helpful in determining the need for detention or shelter care may be admitted by the court even though not competent in a hearing on the petition.

(e) If the child is not released and no parent, guardian or other custodian has been notified and none appeared or waived appearance at the hearing, upon the filing of an affidavit stating these facts, the court shall rehear the matter within 24 hours, Saturdays, Sundays, and holidays included.

**Section 9.** Section 12-15-61, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-61. Facilities to be used for detention or shelter care of children generally; when delinquent child, etc., may be detained in jail or other facility for detention of adults; notification of court, etc., when child received at facility for detention of adult offenders or persons charged with crimes; transfer of child to detention facility, etc., when case transferred from juvenile court for criminal prosecution.

(a) In providing detention and shelter care or other care for children referred to or coming under the jurisdiction of the court, the court shall utilize only such facilities as have been established, licensed or approved by the department of youth services or department of human resources for such purposes.

(b) After October 1, 1991, the department of youth services shall accept all children committed to it within seven days of notice of disposition.

(c) A child shall not be detained in a jail or other facility for the detention of adults unless the child has been transferred for criminal prosecution and the case is pending trial or appeal, or unless the juvenile court's jurisdiction over such child has been terminated pursuant to §12-15-34(h).

(d) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be a child as defined by this chapter, is received at the facility, and shall deliver him to the court upon request or transfer him to a detention facility designated by the court.

(e) When a case is transferred to another court for criminal prosecution, the child shall be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of such person charged with crime.

(f) Any law enforcement official shall, at the direction of the juvenile court, provide security and transportation services for the juvenile court in transporting children to and from secure detention facilities.

**Section 10.** Section 12-15-62, Code of Alabama 1975, is amended to read as follows:

Section 12-15-62. Child to be released when full-time or shelter care not required; conditions which may be imposed upon release; amendment of conditions or return of child to custody upon failure to conform to conditions imposed.



(a) When the court finds that a child's full-time detention or shelter care is not required, the court shall order his release, and in so doing, may impose one or more of the following conditions singly or in combination:

(1) Place the child in the custody of a parent, guardian, custodian or any other person who the court deems proper and under the supervision of an agency or organization agreeing to supervise him;

(2) Place restrictions on the child's travel, association or place of abode during the period of his release; or

(3) Impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in §12-15-59, including a condition requiring that the child return to custody as required.

(b) An order releasing a child on any conditions specified in subsection (a) of this section may at any time be amended to impose additional or different conditions or of release or to return the child to custody for failure to conform to the conditions originally imposed.

(c) Within 18 months of any court order placing a child in foster care the court shall hold a disposition hearing. The department of human resources shall present to the court at such hearing a permanent plan for said child. If a permanent plan is not presented to the court at this hearing there shall be a rebuttable presumption that the child should be returned to the family. This provision is intended to insure that a permanent plan is prepared by the department of human resources and presented to the court within 18 months of the placement of any child in foster care.

**Section 11.** Section 12-15-65, Code of Alabama 1975, is amended to read as follows:

Section 12-15-65. Conduct of hearings and disposition of cases generally.

(a) Hearings under this chapter shall be conducted by the court without a jury and separate from other proceedings. The general public shall be excluded from delinquency, in need of supervision or dependency hearings and only the parties, their counsel, witnesses and other persons requested by a party shall be admitted. Such other persons as the court finds to have a proper interest in the case or in the work of the court may be admitted by the court on condition that such persons refrain from divulging any information which would identify the child or family involved. If the court finds that it is in the best interest of the child, his presence may be temporarily excluded from the hearings, except while allegations of delinquency or in need of supervision are being heard.

(b) The parties shall be advised of their rights under law in their first appearance at intake and before the court. They shall be informed of the specific allegations in the petition and given an opportunity to admit or deny such allegations.

(c) If the allegations are denied, the court shall proceed to hear evidence on the petition. The court shall record its findings on whether or not the child is a dependent child or, if the petition alleges delinquency or in need of supervision, as to whether or not the acts ascribed to the child were committed by him. If the court finds that the allegations to the petition have not been established, it shall dismiss the petition and order the child discharged from any detention or temporary care theretofore ordered in the proceeding.

(d) If the court finds on proof beyond a reasonable doubt, based upon competent, material and relevant evidence, that a child committed the acts by reason of which he is alleged to be delinquent or in need of supervision it may proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of an act which constitutes a felony is sufficient to sustain a finding that the child is in need of care or rehabilitation. If the court finds that the child is not in need of care or rehabilitation, it shall dismiss the proceedings and discharge the child from any detention or other temporary care theretofore ordered.

(e) If the court finds from clear and convincing evidence, competent, material and relevant in nature, that the child is dependent and in need of care or supervision or from clear and convincing evidence, competent, relevant and material in nature, that the child is in need of care or rehabilitation as a delinquent child or a child in need of supervision, or from clear and convincing evidence, competent, relevant and material in nature that parental rights should be terminated the court may proceed immediately, in the absence of objection showing good cause or at a postponed hearing, to make proper disposition of the case.

(f) In disposition hearings all relevant and material evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though not competent in a hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports.

(g) On its own motion or that of a party, the court may continue the disposition hearing under this section for a reasonable period to receive reports and other evidence bearing on the disposition or need for care or rehabilitation. In this event, the court shall make an

appropriate order for detention or temporary care for the child or his release for detention or temporary care during the period of the continuance subject to such conditions as the court may impose.

(h) A proceeding to allow a child to withdraw from school shall be commenced by petition. The petition shall be granted only upon a showing of good cause for withdrawal and only to a child 16 years of age or older. No child shall be deemed incorrigible, in need of supervision or unamenable to treatment based on the filing of such petition.

**Section 12.** Section 12-15-71, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-71. Disposition of dependent children, delinquent children or children in need of supervision generally.

(a) If a child is found to be dependent, the court may make any of the following orders of disposition to protect the welfare of the child:

(1) Permit the child to remain with his parents, guardian or other custodian, subject to such conditions and limitations as the court may prescribe;

(2) Place the child under protective supervision as herein provided or under the supervision of the department of human resources;

(3) Transfer legal custody to any of the following:

a. The department of human resources; provided, that said department is equipped to care for the child;

b. A local public child-placing agency or private organization or facility willing and able to assume the education, care and maintenance of the child and which is licensed by the department of human resources or otherwise authorized by law to receive and provide care for such child; or

c. A relative or other individual who, after study by the department of human resources, is found by the court to be qualified to receive and care for the child;

(4) Make such other order as the court in its discretion shall deem to be for the welfare and best interests of the child;

(5) In appropriate cases, award permanent custody to the department of human resources or to a licensed child-placing agency with termination of parental rights and authorization to place for adoption, without appointing a legal custodian or guardian or guardian of the person, or award temporary custody to the same without appointing a legal custodian or guardian or guardian of the person.

(6) There shall be a rebuttable presumption that children cannot be removed from custody of parents solely because of a need for emergency housing.

(b) Unless a child found dependent shall also be found to be delinquent, he shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children or detention facility; provided, however, that nothing in this subsection shall be construed to prohibit the placement of dependent children in any other residential facility as defined in subdivision (21) of §12-15-1.

(c) If a child is found to be delinquent or in need of supervision, the court may make any of the following orders or dispositions for his supervision, care and rehabilitation:

(1) Permit the child to remain with his parents, guardian or other custodian, subject to such conditions and limitations as the court may prescribe;

(2) Place the child on probation under such conditions and limitations as the court may prescribe;

(3) Transfer legal custody to any of the following:

a. The department of youth services, with or without a commitment order to a specific institution;

b. In the case of a child in need of supervision, the department of youth services or the department of human resources;

c. A local, public or private agency, organization or facility willing and able to assume the education, care and maintenance of the child and which is licensed or otherwise authorized by law to receive and provide care for children;

d. A relative or other individual who, after study by the probation services, is found by the court to be qualified to receive and care for the child;

(4) Any order which is authorized by subdivision (4) of subsection (a) of this section and subject to the requirements thereof; or

(5) Make such other order as the court in its discretion shall deem to be for the welfare and best interests of the child, including random drug screens, assessments of fines not to exceed \$250.00 and such restitution against the parent, guardian, and/or child, as the court deems appropriate. Costs for court-ordered drug screening may be ordered paid for by the state out of monies appropriated as "court costs not otherwise provided for." Any costs for drug screening recouped by order of court for drug screening shall be paid to the state general fund.

(6) Direct the parent or custodian of the child to perform such reasonable acts as are deemed necessary to promote the best interest of the child.

(d) No child by virtue of a disposition under this section shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of a crime.

(e) No child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility established for the care and rehabilitation of delinquent children unless the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under any prior disposition or unless such child is again alleged to be a child in need of supervision and the court, after hearing, so finds.

(f) When a delinquent child is committable to an institution or agency for the mentally retarded or mentally ill, the court shall proceed as provided in §12-15-70 rather than committing to an institution or facility for the care and rehabilitation of delinquent children.

(g) Whenever the court vests legal custody in an agency or department, it shall transmit with the order copies of the clinical reports, predisposition study and other information it has pertinent to the care and treatment of the child.

(h) (1) Regardless of the nature of the petition or allegation, when the court finds the child requires the services of two or more agencies pursuant to section 12-15-1(19), the juvenile court may adjudge such child as a "multiple needs child" and order the use of any dispositional alternative or service available for dependent or delinquent children or children-in-need-of-supervision, children who are emotionally disturbed, mentally retarded or mentally ill, or children who need specialized educational services, or children who need health services, or any combination thereof.

(2) Provided however, no child, unless alleged or adjudicated delinquent, may be placed in detention facilities established primarily for delinquents.

(3) The juvenile court shall determine the appropriate custodial agency, based on the child's characteristics of behavior and type of treatment needed and in accord, as far as possible, with the provisions of this Chapter for vesting legal custody in an agency or department of a child determined to be dependent, in need of supervision, delinquent, mentally ill or mentally retarded. Nothing in this subsection, however, shall require an order of commitment for a child to (a) receive services or (b) be placed in the custody of a state agency or department as an adjudicated multiple needs child. It shall

be the duty of probation services, and the departments of education, youth services, mental health and mental retardation, and human resources to provide services both at an in-home, community or residential setting for multiple needs children when ordered by the court.

(4) The juvenile court may appoint a guardian ad litem for a multiple needs child.

(5) The provisions of subsection (h)(1), (2), (3), and (4) shall become effective October 1, 1992, provided appropriations are made by the legislature for the provision of such services. The departments of human resources, mental health and mental retardation, youth services, and education along with juvenile probation services shall develop a program of services for multiple needs children which shall include, but not be limited to, local treatment teams. Annually, the above named departments shall develop a cooperative, pro rata method of funding the agreed upon program of services and shall submit a request to the legislature for funding to be included in each department's annual appropriation.

(i) When a child is placed in the custody of the department of human resources, department of mental health and mental retardation or department of youth services and when the parents or guardians have resources for child support, the juvenile court shall order child support in conformity with the child support guidelines as set out in Rule 32, Alabama rules of judicial administration. The child support shall be paid to the agency in whose primary custody the child is placed and may be expended for those matters that are necessary for the welfare and well-being of those children placed in such agencies. In such cases the court shall issue income withholding orders subject to state law. Any petition for custody of a child filed by department of human resources shall contain a request for child support.

(j) Whenever the court commits a child to a state or local agency and/or orders a state or local agency to provide services and/or treatment for a child, that agency shall accept the child for commitment, ordered services and/or treatment within seven days of the court's order. However, if compliance with the court's order within seven days would place an agency in violation of either a state statute or standard, then compliance is not required.

### **Section 13. Serious juvenile offenders.**

(a) The juvenile court may find a child to be a serious juvenile offender if:

(1) the child is adjudicated delinquent and the delinquent act or acts charged in the petition would constitute any of the following if committed by an adult:

a. Class A Felony;

b. A felony resulting in serious physical injury [as defined in §13A-1-2(8), Code of Alabama 1975];

c. A felony involving physical force [§13A-1-1(10), Code of Alabama 1975], or a deadly weapon, [§13A-1-2(11), Code of Alabama 1975], or a dangerous instrument [§13A-1-2(12), Code of Alabama 1975]; or

(2) the child has been adjudicated delinquent for an act which would constitute a Class A or B felony or burglary in the third degree involving a residence and the child has previously been adjudicated delinquent of two previous acts which would have been a Class A or B felony or burglary in the third degree involving a residence if such acts had been committed by an adult.

(b) A child found to be a serious juvenile offender shall be committed to the custody of the Alabama department of youth services, where he shall remain for a minimum of one year.

(c) A serious juvenile offender review panel shall be created by the board of the Alabama department of youth services. The serious juvenile offender review panel shall review quarterly the progress of each serious juvenile offender and determine at the end of the one year term served by each child, a further treatment plan for that child. The panel may extend the commitment, order alternative treatment or release the child. The serious juvenile offender review panel must provide the court with all reports and recommendations, and notify the judge in writing of the decision to release the child at least 30 days in advance of said release.

(d) The Alabama department of youth services shall maintain and staff a separate, secure facility and implement programs for serious juvenile offenders. The minimum one year term required by this section shall be served at said facility and the review panel may extend the period of confinement in said facility as determined necessary.

(e) Nothing in this section shall be construed to prevent the juvenile court from transferring a child for criminal prosecution pursuant to §12-15-34.

**Section 14.** Section 12-15-76, Code of Alabama 1975, is hereby amended as follows:

Section 12-15-76. Procedure and dispositions in cases involving minors or adults.

In any proceeding arising under subdivision (1) of §12-15-31, the court, with the consent of the defendant, may make a preliminary investigation and such adjustment as is practicable, without prosecution. The procedure and disposition applicable in the trial of such

cases in a criminal court shall be applicable to trial in the juvenile court.

The prosecutor shall prepare and prosecute any case within the purview of §12-15-31. Where, in his opinion, it is necessary to protect the welfare of the persons before the court, the judge, with the consent of the defendant and the parties in interest, may conduct hearings in chambers and may exclude persons having no direct interest in the case.

In addition to all other current requirements for investigating and reporting child abuse and neglect, law enforcement agencies shall investigate complaints alleging offenses committed against children by alleged out-of-home perpetrators. The department of human resources shall cooperate with law enforcement agencies in interviewing the alleged abused children.

**Section 15.** Section 12-15-100, Code of Alabama 1975, is hereby amended to read as follows:

Section 12-15-100. Filing and inspection of social, medical, psychiatric, etc., records of children; inspection of court dockets, transcripts, orders, etc.; disclosure, etc., of information derived from court records, etc., pertaining to child before court.

(a) Social, medical and psychiatric or psychological records, including reports of preliminary inquiries and predisposition studies, of delinquent, in need of supervision and dependent children, including supervision records of such children, shall be filed separate from other files and records of the court and shall be open to inspection only by the following:

(1) The judge and probation officers and professional staff assigned to serve the court;

(2) Representatives of a public or private agency or department providing supervision or having legal custody of the child;

(3) Any other person or agency that the juvenile court determines, after a hearing has a legitimate interest in the case or in the work of the court;

(4) The probation and other professional staff assigned to serve a criminal court, including the prosecutor and the attorney for the defendant, for use in considering the sentence to be imposed upon a convicted person, or one adjudicated a youthful offender, who, prior thereto, had been a party to the proceedings in court; and

(5) The probation and other professional staff assigned to serve a criminal court when investigating or considering youthful offender applications.



(6) The child's parents, except when parental rights have been terminated, or guardian and the child's counsel and the child's guardian ad litem.

(b) All or any part of the records enumerated in subsection (a) of this section or information secured from such records, when presented to and used by the judge in court or otherwise in a proceeding under this chapter, shall also be made available to the parties to the proceedings and their counsel and representatives.

(c) All other court records, including the docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by those persons and agencies designated in subsections (a) and (b) of this section.

(d) Whoever, except for the purposes permitted and in the manner provided by this section, discloses or makes use of or knowingly permits the use of information concerning a child before the court directly or indirectly derived from the records of the court or acquired in the course of official duties, upon conviction thereof, shall be guilty of a misdemeanor.

**Section 16.** Section 12-15-101, Code of Alabama 1975, is hereby amended as follows:

Section 12-15-101. Maintenance and inspection of law enforcement records and files concerning children generally; disclosure, etc., of information from records or files pertaining to child.

(a) The court shall, by rule, require all law enforcement agencies to take special precautions to insure that law enforcement records and files concerning a child will be maintained in such manner and under such safeguards as will protect against disclosure or any unauthorized person. Unless a charge of delinquency is transferred to criminal prosecution under §12-15-34 or the court otherwise orders in the interest of the child or of national security, such records and files with respect to such child shall not be open to public inspection nor their contents disclosed to the public.

(b) Inspection of such records and files shall be permitted only to the following:

(1) A juvenile court having the child currently before it in any proceeding;

(2) The officers of the department of human resources, the department of youth services, public and nongovernmental institutions or agencies to which the child is currently committed and those responsible for his supervision after release;

(3) Any other person, agency or institution that the juvenile court determines after a hearing, to have a legitimate interest in the case or in the work of the law enforcement agency;

(4) Law enforcement officers of other jurisdictions when necessary for the discharge of their current official duties;

(5) The probation and other professional staff of a court in which the child is subsequently convicted of a criminal offense or adjudicated as a youthful offender for the purpose of a presentence report or other dispositional proceedings, officials of penal institutions and other penal facilities to which he is committed or a parole board in considering his parole or discharge or in exercising supervision over him;

(6) The probation and other professional staff serving a criminal court when investigating or considering youthful offender applications; and

(7) The parent, guardian or other custodian and counsel for the child.

(c) Whoever, except as provided in subsections (a) and (b) of this section, directly or indirectly discloses or makes use of or knowingly permits the use of information concerning a child described in said subsections, upon conviction thereof, shall be guilty of a misdemeanor.

**Section 17.** (1)(a) The Alabama juvenile justice coordinating council is hereby created and shall consist of the following members: three appointees from business and industry made by the governor; the lieutenant governor; the speaker of the house of representatives; the chief justice; the legal advisor to the governor; the attorney general; the president of the juvenile and family court judges' association; the commissioner of the department of corrections; the president of the district attorneys' association; the president of the chief juvenile probation officers' association; the commissioner of the department of human resources; the administrative director of courts; the commissioner of the department of mental health and mental retardation; the executive director of the department of youth services; the state superintendent of education; the state health officer; the executive director of the Alabama children's trust fund; the president of the Alabama parent-teachers association; and five persons to be appointed by the council.

(b) The first meeting of the state council shall be called by the chief justice, who shall serve as chairman, at which time the five council appointees shall be selected. The five council appointees and the three appointees of the governor shall serve on the Alabama juvenile justice coordinating council for two years from October 1

following their appointment and until their successors are selected, and may be reappointed for additional terms. Any vacancies in such appointed positions shall be filled in like manner as their predecessor and shall serve for a full term and until their successors are selected. If the council deems it necessary or advisable, it may elect a vice-chairman and such other officers as necessary. The vice-chairman and any other officers of the council, other than the chairman, shall hold said offices for such period as designated by the council, or for so long as they remain members of the council. Following the first organizational meeting, the council shall meet at the call of the chairman at least once annually prior to September 1 of each fiscal year, and at such other times as, in the opinion of the chairman, additional meetings are needed.

(c) It shall be the duty of the Alabama juvenile justice coordinating council to review the report prepared by the administrative office of courts pursuant to subsection (2)(c) of this section and to make such recommendations as it deems necessary and appropriate to the governor and legislature by October 1 of each fiscal year. It shall also be the duty of the Alabama juvenile justice coordinating council to develop a state resource guide, including procedural information concerning how to access such services. This guide shall be distributed to agencies and organizations serving children as well as the county juvenile justice coordinating councils in each county of the state and the general public.

(d) There is hereby established a state juvenile justice coordinating council fund into which there is automatically appropriated \$20,000 annually at the beginning of each fiscal year. Any funds remaining in the state juvenile justice coordinating council fund at the end of any fiscal year shall not revert to the general fund. The comptroller shall transfer said moneys from the general fund to the state juvenile justice coordinating council fund annually at the beginning of each fiscal year and the moneys in said fund shall be expended for the travel expenses of members of the council who are not otherwise reimbursed by the state and such other necessary operating costs and expenses as approved by the chairman of the Alabama juvenile justice coordinating council. Travel and per diem for all members of the council shall be calculated and paid at the same rate applicable to state employees. Any expenses of the Alabama juvenile justice coordinating council, including printing, postage and mailing costs, which cannot be paid due to insufficient funds, shall be charged to the departments and agencies represented by membership on the council on a pro-rata basis, as calculated by the chairman.

The Alabama juvenile justice coordinating council is authorized to accept and use funds available to it from all sources, including,

but not limited to, grants, appropriations, gifts and donations for the purpose of implementing the provisions of this section. All such funds shall be deposited into the state juvenile justice coordinating council fund, which shall be under the management of the Alabama juvenile justice coordinating council. Moneys of the fund may be withdrawn by vouchers or checks signed by the chairman of the juvenile coordinating council.

(2) (a) A county juvenile justice coordinating council is hereby created in each county of the state. Said council shall consist of the following members: the juvenile court judge(s) in said county; the county director of the department of human resources; a county representative of the department of mental health and mental retardation; a county representative of the department of youth services; the county and/or city superintendent(s) of education; the county chief juvenile probation officer; a representative of the county health department; the district attorney; local legislators; the chairperson of the county commission; the sheriff, and seven persons to be appointed by the council from the community including, but not limited to, state and local government officials, practicing attorneys, community organizations, business and industry, and representatives of any other agencies or organizations providing services to families and children in the county.

(b) All members of the county juvenile justice coordinating council shall serve on said council for two years and until their successors are appointed, except those who serve by virtue of holding a designated office. The county juvenile justice coordinating council shall be convened at least once each quarter at the call of the senior juvenile court judge who shall serve as the chairman. At the first meeting of the council, said council shall select its seven additional council members. If the council deems it necessary or advisable, it may elect a vice chairman, secretary and such other officers as it may determine necessary. Such additional officers shall hold office for such period as designated by the council.

(c) It shall be the duty of the county juvenile justice coordinating council to review the needs of children and the responsibilities assigned each agency by law; to determine areas of responsibility and identify areas of duplication and/or conflict of between agencies; to identify local resources; and to develop and up-date annually, a local resource guide to services available to children which shall include procedural information concerning how to access such local services; to articulate and communicate to the local community the needs of children; and to submit an annual report to the administrative office of courts by July 1 of each year on the juvenile services provided, local needs and recommendations of the county coordinating council based on data from the previous fiscal year ending September 30.

The administrative office of courts shall then, by September 1 of each year, submit its summary recommendations based on said reports, along with a copy of each local report to the Alabama juvenile justice coordinating council. The local resource guides shall be used by the Alabama juvenile justice coordinating council in compiling a state resource guide which shall be distributed to the general public and to agencies and organizations serving children.

(3) The members of the Alabama juvenile justice coordinating council who are officers or employees of the State of Alabama shall be entitled to be reimbursed their expenses, including travel, lodging, food and other expenses at the same rate as other state employees. Such expenses shall be paid by the comptroller from funds appropriated from the state treasury to the department or agency which the member represents.

**Section 18.** The provisions of this Act shall supersede and take precedence over all laws or parts of laws, both general and local, and any rules or portions of rules adopted by the supreme court which conflict herewith.

**Section 19.** If any portion of this Act shall be held unconstitutional or void, the remaining portions of this Act shall not be affected.

**Section 20.** This Act shall be effective on the 60th day after passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 1, 1990.

Time: 9:45 A.M.

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Act No. 90-675

H.J.R. 414—Rep. Rains

### HOUSE JOINT RESOLUTION

COMMENDING TRACY LYNN, OF ALBERTVILLE, ALABAMA.

WHEREAS, the Alabama Legislature is pleased to note that Albertville High School senior, Tracy Lynn, is the recipient of the coveted Vulcan Scholarship, which is the top award given to a senior entering the University of Alabama, as well as the prestigious Presidential Scholarship; and

WHEREAS, the daughter of Mr. and Mrs. Lamar Lynn, Tracy has routinely commanded top scholastic and academic accomplishments throughout high school which have earned her many honors and the esteem of many; and

WHEREAS, Tracy's hard work, keen intellect and dedication to the highest of standards in education and her personal life are an outstanding example for her peers; and

WHEREAS, Tracy is ranked as a finalist in the National Merit Scholarship Program and is one of ten members selected by the Birmingham Post-Herald for the Alabama All-State Academic Team; and

WHEREAS, Tracy Lynn, a communications major, has studied journalism at Northwest University in Chicago; she was the state representative for Alabama in the National Citizen Bee and served as editor of her school paper; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Tracy Lynn, an outstanding scholar, on her many educational achievements, particularly the most recent Vulcan Scholarship and the Presidential Scholarship, and on her dedication to excellence.

BE IT FURTHER RESOLVED, That as a token of our esteem and admiration a copy of this resolution shall be given to Tracy Lynn together with our best wishes on all of her future endeavors.

Approved May 3, 1990

Time: 4:30 P.M.

Act No. 90-676

H.J.R. 443—Reps. Hooper, Cosby, McKee  
and Walker

## HOUSE JOINT RESOLUTION

### DESIGNATING "MANAGEMENT WEEK IN ALABAMA."

WHEREAS, the week commencing June 4, 1990, has been designated by the National Management Association as Management Week; and

WHEREAS, the National Management Association is an organization committed to the promotion of the free enterprise system, management as a distinct profession, and the certification of managers; and

WHEREAS, in the past, the management profession has significantly contributed to the strength and vitality of this country's economy, and in the future such skills will be particularly essential

as we strive to strengthen and revitalize the economy of the State of Alabama; and

WHEREAS, the twenty Alabama Chapters of the National Management Association, with approximately 5,000 members, will join with other managers nationwide to honor the role and achievements of managers in our society during Management Week; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby designate the week commencing June 4, 1990, as Management Week in Alabama, and call upon the citizenry to recognize and participate in the observance of this worthy occasion.

Approved May 3, 1990

Time: 4:31 P.M.

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Act No. 90-677

H.J.R. 445—Reps. Box, Turner, Kennedy,  
Harper, Gaston,  
Buskey (JE), Zoghby,  
Clark (W), Kvalheim and  
Marietta-Lyons

### HOUSE JOINT RESOLUTION

RECOGNIZING THE MOBILE/CHICKASAW MOLECULAR SIEVE PLANT ON ITS 25TH ANNIVERSARY OF SERVICE TO THE COMMUNITY.

WHEREAS, the Mobile/Chickasaw Sieve Plant began operations at its present location in Chickasaw, Alabama, in 1965, as the Union Carbide Corporation with a staff of some 30 persons; and

WHEREAS, in continuous operation for the past twenty-five years and as a result of fifteen major expansions during this time, the plant investment now exceeds one hundred million dollars and employs more than four hundred people; and

WHEREAS, the plant, which in 1988 became part of a joint venture between the Union Carbide and Allied Signal Corporations and is now known as UOP, has received a number of awards for its accomplishments in Safety and Environmental Protection including commendation for achieving no lost work day injuries on the job for over eight consecutive years and in excess of seven million manhours; and

WHEREAS, among other recognitions are the National Safety Council award as the safest inorganic chemical plant in the United

States; the Award of Excellence in Waste Water Treatment, granted twice in a five-year period by the Alabama Association of Water Pollution Control; and Charter Membership in the Greater Mobile Industrial Association and the Mobile County Local Emergency Planning Committee, formed to respond to chemical spills or emergencies; and

WHEREAS, the absorbents and catalysts from the UOP plant are used worldwide and variously to protect the environment, enhance the quality of life and to improve many industrial processes, and the multiple uses for plant products, both diverse and expanding, include natural gas drying and purifying, medical oxygen purifying, petroleum refinery catalysts, drying agent in dual-pane windows, odor removal, laundry detergent ingredient, as well as several automotive and home refrigerant uses among others; and

WHEREAS, the UOP plant, which as a joint venture has now opened new markets for its products and increased its opportunities for further growth and expansion, is a valued asset to the Mobile/Chickasaw area and to the State of Alabama, and we acknowledge with gratitude its contributions to the community in providing jobs for the local work force and its favorable reflection upon the state through its worldwide reputation for quality products and service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we anticipate a future partnership in growth with UOP, we recognize with highest commendation the many accomplishments of the plant during its first twenty-five years and do further direct that a copy of this resolution be provided for presentation during the Silver Anniversary celebration on April 21, 1990.

Approved May 3, 1990

Time: 4:32 P.M.

Act No. 90-678

H.J.R. 606—Rep. White (G)

### HOUSE JOINT RESOLUTION

NAMING THE ALABAMA PUBLIC HEALTH FINANCE AUTHORITY ACT \_\_\_\_\_, S. 84 OF THE 1990 REGULAR SESSION, "THE TURNHAM-GOODWIN ACT."

WHEREAS, Representative Pete Turnham and Senator Earl Goodwin worked tirelessly for the enactment of the Alabama Public



Health Finance Authority Act, S. 84 of the 1990 Regular Session; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the act which S. 84 of the 1990 Regular Session becomes, which created the Alabama Public Health Finance Authority, is hereby named, "The Turnham-Goodwin Act."

BE IT FURTHER RESOLVED, That copies of this resolution be presented to our esteemed colleagues, Representative Pete Turnham and Senator Earl Goodwin.

Approved May 3, 1990

Time: 4:33 P.M.

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Act No. 90-679

H.J.R. 494—Reps. Hooper and McKee

### HOUSE JOINT RESOLUTION

#### COMMENDING THE SOUTHWIND DRUM AND BUGLE CORPS.

WHEREAS, the Southwind Drum and Bugle Corps is a rapidly growing statewide organization dedicated to the enrichment of instrumental music and precision drill by musicians not more than twenty-one years of age; and

WHEREAS, Southwind Drum and Bugle Corps provides local support for education and brings a new spectator sport to Alabama; and

WHEREAS, Southwind Drum and Bugle Corps was founded in 1980 and made the "Official Drum and Bugle Corps" for the State of Alabama in 1982; and

WHEREAS, Southwind Drum and Bugle Corps has represented the State of Alabama all over the continental United States and Canada, appearing on national television; and

WHEREAS, Southwind Drum and Bugle Corps has competed in international competition and ranked among the highest; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Southwind Drum and Bugle Corps for the organization's outstanding representation on behalf of the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. William Stiers, Founder of the Southwind Drum and Bugle Corps, and to Mr. Dave Bryan, Director, that they may know of our deep appreciation of their efforts and talents.

Approved May 3, 1990

Time: 4:34 P.M.

Act No. 90-680

H.J.R. 495—Reps. Colvin, Bugg, Ford  
and Blake

### HOUSE JOINT RESOLUTION

NAMING THE NEW FIELD HOUSE AT ASHVILLE HIGH SCHOOL, ASHVILLE, ALABAMA, IN HONOR AND MEMORY OF DAVID TODD WILSON.

WHEREAS, David Todd Wilson, born May 10, 1969, to Jim and Mary Alice Wilson, was reared in the Shoal Creek Valley community of Saint Clair County, Alabama, and graduated from Ashville High School with the Class of 1987; and

WHEREAS, David Wilson, was an outstanding member of the Ashville High School football team and distinguished himself through selection as the "Most Improved Player" during his senior year; and

WHEREAS, David Todd Wilson, who died on June 28, 1987, at the age of 18 years, is yet grievously missed by his teammates, friends, classmates and family, and it is in his honor and memory that his football jersey, number 75, has been permanently retired at Ashville High School; and

WHEREAS, the Ashville Quarterback Club voted to name the new field house at Ashville High School, the "David Todd Wilson Memorial Field House," and appropriate dedication ceremonies were held in April 1989; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and loving memory of David Todd Wilson, we hereby officially name and designate the new field house at Ashville High School, Ashville, Alabama, as the "David Todd Wilson Memorial Field House."

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers so designating the "David Todd Memorial Field House."

RESOLVED FURTHER, That a copy of this resolution be forwarded to David's family as a memento of this honorary designation of the Legislature in tribute to their beloved son.

Approved May 3, 1990

Time: 4:35 P.M.

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Act No. 90-681

H.J.R. 496—Reps. Colvin, Ford and Bugg

### HOUSE JOINT RESOLUTION

COMMENDING MYRA BROWN OF GADSDEN, ALABAMA, FOR OUTSTANDING SERVICE TO THE ETOWAH COUNTY COOPERATIVE EXTENSION SERVICE, AUBURN UNIVERSITY.

WHEREAS, a native of Lawrenceburg, Tennessee, and a graduate of Lawrence County High School, Myra Brown has resided in Gadsden, Alabama, since 1943; she also graduated from Gadsden Business College and, as a teenager in 1945, joined the staff of the Etowah County Cooperative Extension Service of Auburn University; and

WHEREAS, Mrs. Brown, whose position is that of head secretary for the Etowah County Service, is charged with innumerable responsibilities, in addition to general secretarial work, and she has been a valued employee throughout her lengthy tenure which to-date spans a period of almost 45 years; and

WHEREAS, always eager to help the public with problems related to agriculture, home economics and the 4-H Club, Mrs. Brown is an accomplished lady who truly enjoys her work, and the pleasure she finds in helping others is reflected in her dedication and loyalty to the Auburn University Cooperative Extension Service and its Etowah office; and

WHEREAS, Mrs. Brown also is a prominent civic and community worker who serves as president of the East Gadsden United Methodist Church U.M.W and as chairman of the Parsonage Committee, in addition to other activities of concern to the Gadsden and Etowah County areas; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the Etowah County Cooperative Extension Service, Auburn University, and the community, we hereby most highly commend Mrs. Myra Brown of Gadsden, Alabama, and do

further direct that she receive a copy of this resolution of sincere praise and esteem.

Approved May 3, 1990

Time: 4:36 P.M.

Act No. 90-682

H.J.R. 543—Rep. Headley

### HOUSE JOINT RESOLUTION

**COMMENDING WINFRED ALEXANDER LECROY FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT AND SERVICE.**

WHEREAS, the Legislature of Alabama notes with commendation and esteem, the numerous contributions of Winfred Alexander (Bing) LeCroy in dedicated service to his profession and the community; and

WHEREAS, Mr. LeCroy of Clanton, who was awarded a certificate in elementary education from Jacksonville State University, also holds the B.S. and Master's degrees, as well as AA certification, from Auburn University; and

WHEREAS, serving since 1974 as a director and coordinator for the Wallace Community College Selma-Clanton Extension, Mr. LeCroy previously and successively served from 1948-1974 as classroom teacher, transportation supervisor and Superintendent of Education with the Chilton County Board of Education; as State Superintendent of Education; as director of Southeastern Learning Center, Princeton University; principal of Calera High School, Shelby County; director of the Chilton County Area Vocational Center; as State coordinator of all area vocational centers; and as director, coordinator and instructor at Alexander City Junior College; and

WHEREAS, Mr. LeCroy, in commendable professional leadership, is a past executive officer and secretary for the State Board of Education, past trustee of Boys and Girls Industrial School, past secretary to the Education Authority, past president of the Alabama Education Association and a past director of the Southeastern Learning Center; he also formerly served as a member of the Boards of Trustees of the University of Alabama and Auburn University; and

WHEREAS, in an extension of service to state, community and profession, he has served as a member of the State Building Commission and on the Healing Arts Board; is a member of the American Association of School Administrators, American Elementary and High

School Principals Association, the National Association of Secondary School Principals, National Education Association and the American Vocational Associations; and is a member of the Farm Bureau, Chamber of Commerce, American Legion, Parents-Teachers Association (Life Member), the Kiwanis Club (past president) and is an Eagle Scout Counselor for the Tuckabatchee Area; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in grateful recognition of outstanding service to education, state and community, we hereby commend Winfred Alexander (Bing) LeCroy, whom we hold in highest regard and to whom a copy of this resolution shall be presented.

Approved May 3, 1990

Time: 4:37 P.M.

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Act No. 90-683

H.J.R. 554—Reps. Willis, Crow and Campbell

### HOUSE JOINT RESOLUTION

#### MOURNING THE DEATH OF MILTON WESLEY "JACK" KEAMMERER OF WEAVER, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the untimely death of "Jack" Keammerer of Weaver, Alabama, on April 7, 1990, at the early age of just 41 years; and

WHEREAS, Mr. Keammerer was a native of Harrisburg, Pennsylvania, who was serving as fire chief and assistant police chief of Weaver, Alabama, after retiring as a first sergeant from the U.S. Army with 21 years of distinguished service which included three tours of combat duty in Vietnam; and

WHEREAS, during his term with the Weaver Fire Department, "Jack" Keammerer was instrumental in the formal training of the fire department personnel who were recently awarded state certification as basic firefighters; and

WHEREAS, Chief Keammerer was people oriented and committed himself and all of his efforts to the City of Weaver and his compassionate and caring attitude towards the residents of his city was demonstrated continuously throughout his public service career; and

WHEREAS, the death of Milton Wesley "Jack" Keammerer has indeed left a deep void in the life of the Weaver community and in the hearts of his beloved family and numerous friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of "Jack" Keammerer of Weaver, Alabama, and extend our deepest sympathy to his wife Tammy Keammerer and to the other members of his family for whom a copy of this resolution shall be provided that they may know of our shared sorrow in their great and inconsolable loss.

Approved May 3, 1990

Time: 4:38 P.M.

Act No. 90-684

H.J.R. 557—Rep. Holley

### HOUSE JOINT RESOLUTION

HONORING THE SESQUICENTENNIAL OF NEW HOPE BAPTIST CHURCH IN COFFEE COUNTY, ALABAMA.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes that the New Hope Baptist Church was constituted in 1840, on the east bank of the Pea River, by Thomas Cole, the builder of Cole's Bridge; and

WHEREAS, New Hope Baptist Church, the original log church building located one mile northwest of Cole's Bridge, brought religion to Mr. Cole's family and neighbors in what was then known as Dale County but was, in 1841, chartered as Coffee County; and

WHEREAS, New Hope Baptist Church was affiliated in 1852 with the Salem Association of Pike County; and

WHEREAS, New Hope Baptist Church was admitted on November 1, 1883 at the annual meeting, to the Pea River Association, which in 1906 changed its name to the Coffee County Association; and

WHEREAS, New Hope Baptist Church was moved, following the destruction of the original church building in the 1880's to the present site which was donated for the church and a cemetery by James J. Dismukes; and

WHEREAS, New Hope Baptist Church has been served by three houses of worship at the present location, including a remodeled brick building with spacious educational and fellowship facilities; and

WHEREAS, New Hope Baptist Church has been acknowledged as the oldest existing Missionary Baptist church in Coffee County; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend and pay tribute to New Hope Baptist Church for 150 years of continuous ministry to Coffee County residents.

BE IT FURTHER RESOLVED, That we wish for New Hope Baptist Church years of continued growth and expanded outreach.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the members of New Hope Baptist Church during ceremonies commemorating the church's 1990 sesquicentennial as a mere token of our high esteem.

Approved May 3, 1990

Time: 4:39 P.M.

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Act No. 90-685

H.J.R. 558—Rep. Holley

### HOUSE JOINT RESOLUTION

COMMENDING THE COFFEE COUNTY COMMISSION IN ESTABLISHING A NEW HEALTH FACILITY, NAMED IN HONOR OF COMMISSIONER SID AVERETT.

WHEREAS, a new Coffee County Health Department Facility, located at the intersection of Troy Highway 167 North and Coffee County Road 48 in Enterprise, now named the S. A. "Sid" Averett Health Center, was officially opened for service to the citizens of the county when Governor Guy Hunt cut the ribbon during ceremonies held on March 14, 1990; and

WHEREAS, an open house was held at the facility on April 8, 1990, from 2:00 until 4:00 p.m.; and in attendance for the occasion were Senator Crum Foshee, Representative Jimmy Holley, Coffee County Commissioners, Billy Eagerton, Chairman, (District 2), Jim DuBose (District 1), Robert Stephens (District 3), Eugene Bradley (District 4), Damascus Crittenden (District 5), Sid Averett (District 6) and Bill Faulk (District 7); and

WHEREAS, during the hours of open house, Administrator Kenneth Ball and other Health Department officials greeted more than 500 visitors who expressed appreciation and well wishes for the new public health facility; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we hereby recognize the accomplishments in establishing the new Coffee County Public Health Facility as a major improvement

in serving the health needs of the county; and we hereby heartily commend the Coffee County Health Department for outstanding service to the county, and direct that a copy of this resolution be presented to the Coffee County Health Department on behalf of all members of the department and for appropriate display at the new facility.

Approved May 3, 1990

Time: 4:40 P.M.

Act No. 90-666

H.J.R. 559—Reps. Penry and McMillan

### HOUSE JOINT RESOLUTION

HONORING JOHN S. GONAS, JR., FOR DISTINGUISHED SERVICE TO BALDWIN COUNTY.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes the numerous and notable contributions of John S. Gonas, Jr., of Baldwin County; and

WHEREAS, a graduate of Purdue University and Cumberland School of Law, Mr. Gonas has been a practicing attorney in Alabama since April 22, 1968; his professional affiliations include membership in the Alabama Bar Association, the American Bar Association, and the Association of Trial Lawyers of America; and

WHEREAS, in volunteer service to the community, he is a member of the Baldwin County Planning and Zoning Commission, a member of the Eastern Shore Chamber of Commerce and the Baldwin County Republican Party, of which he was Chairman; and

WHEREAS, all communities depend heavily upon citizen volunteers to enrich the public good, and to enhance the way of life far beyond the limitation of available public funds; and

WHEREAS, John Gonas has indeed provided outstanding leadership, marked with distinguished accomplishments that have benefited many citizens of the community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Mr. John S. Gonas, Jr., of Baldwin County for outstanding community service and professional achievement and direct that a copy of this resolution be provided to Mr. Gonas as evidence of our high esteem and warmest personal regard.

Approved May 3, 1990

Time: 4:41 P.M.



Act No. 90-687

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H.J.R. 562—Reps. Rogers, Seibels, Beasley, Beers, Biddle, Black, Blake, Blakeney, Bowling, Box, Breedlove, Britnell, Brooks, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carothers, Carter, Clark (J), Clark (W), Clay, Coburn, Colvin, Cosby, Crow, Curry, Dillard, Drake, Escott, Flowers, Ford, Frazier, Freeman, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Gullatt, Hall, Hamilton, Hammett, Harper, Harvey, Haynes, Headley, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson (RG), Johnson (RW), Kennedy, Knight, Kvalheim, Laird, Layson, Lindsey, Logan, Marietta-Lyons, Marks, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Moon, Newman, Newton (C), Newton (D), Parker, Payne, Penry, Perdue, Petelos, Poole, Rains, Richardson, Sanderford, Slaughter, Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White (F), White (G), White (L), Williams, Willis, Wright and Zoghby

## HOUSE JOINT RESOLUTION

### COMMENDING ALFRED VAN HOOSE ON HIS RETIREMENT.

WHEREAS, Mr. Alfred Van Hoose has retired as sports editor with the Birmingham News in Birmingham, Alabama, on March 30, 1990; and

WHEREAS, Mr. Van Hoose is a distinguished sports' columnist whose professional career has been one of deep dedication and commitment to the furtherance and support of the sports' enthusiast; and

WHEREAS, a native of Alabama, Mr. Van Hoose was educated in the public schools, attended Livingston State Teacher College (now Livingston University) for two years and graduated from the University of Alabama with a degree in Journalism; and

WHEREAS, he started with the Birmingham News on March 24, 1947 (as a sports writer) and became sports editor in September 1969, from which he retired; and

WHEREAS, Mr. Van Hoose has been the lead sports columnist for the past 20 years and has written on all sports; his favorite topic has been Southeastern Conference football with baseball as a favorite subject of his columns; and

WHEREAS, Mr. Van Hoose and his devoted wife, Carolyn Van Hoose, are the parents of three children and the grandparents of one grandchild; and

WHEREAS, having served 43 years as one of Alabama's most noteworthy sports columnist and editor, his retirement will be felt by many; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we most warmly praise and commend Mr. Alfred Van Hoose on his outstanding career as a sports columnist and editor.

BE IT FURTHER RESOLVED, That Mr. Van Hoose receive a copy of this resolution in declaration of our sincere appreciation and regard and in expression of our warm best wishes for every future success.

Approved May 3, 1990

Time: 4:42 P.M.

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Act No. 90-688

H.J.R. 563—Reps. Newton (D) and Perdue

#### HOUSE JOINT RESOLUTION

COMMENDING THE SIXTEENTH STREET BAPTIST CHURCH IN BIRMINGHAM ON ITS 117TH ANNIVERSARY.

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes that on Sunday, April 20, 1873, under the leadership

of Reverend James Readen and Reverend Warner Reed, together with a few baptized believers in Christ, the First Colored Baptist Church of Birmingham, Alabama, was organized; and

WHEREAS, since that time, the Church's name has been changed to Sixteenth Street Baptist Church but it continues to be recognized as "The People's Church," having a rich heritage as a focal point for spiritual, cultural, social and community activities; and

WHEREAS, for more than 100 years, the Sixteenth Street Baptist Church has through faith, hope and love and despite hardships inspired its members, all of the community and State to build and develop a better community; and

WHEREAS, on Sunday, September 15, 1963, at 10:22 a.m., the Sixteenth Street Baptist Church exploded into the history of our Nation when a bomb went off during Sunday School, the effects of which became a major force for change in this country; and

WHEREAS, the struggle against the causes of poverty and suffering continues, and the mission of the Church has not diminished but increased; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding public service and community leadership, we hereby most highly commend Sixteenth Street Baptist Church of Birmingham, Alabama, as it observes its 117th Anniversary, and do further direct that they receive a copy of this resolution of honor and esteem.

Approved May 3, 1990

Time: 4:43 P.M.

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Act No. 90-689

H.J.R. 564—Reps. McMillan and Penry

### HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. W. E. FOLEY ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the Golden Wedding Anniversary, May 4, 1990, of Mr. and Mrs. W. E. Foley of Robertsedale, Alabama; and

WHEREAS, in the sight of God, Mr. and Mrs. Foley were joined in wedlock on May 4, 1940, and these two fine people, forsaking all others, have remained in said holy state for the past 50 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their wedding vows, setting an example to be emulated by all others who, in marriage, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Foley are being honored on this momentous occasion at a reception hosted by their children and grandchildren on Saturday, May 5, 1990, at the Bethel Baptist Church on U.S. Highway 90; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That heartiest congratulations are hereby extended to Mr. and Mrs. W. E. Foley, Robertsedale, Alabama, a truly exemplary couple whose union has been richly blessed by God.

BE IT FURTHER RESOLVED, That Mr. and Mrs. Foley receive a copy of this resolution.

Approved May 3, 1990

Time: 4:44 P.M.

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Act No. 90-690	<p>H.J.R. 588—Reps. Fuller, White (F), White (L),          Laird, Butler, Richardson,          Beasley, Beers, Biddle, Black,          Blake, Blakeney, Bowling, Box,          Breedlove, Britnell, Brooks,          Bryant, Bugg, Burke, Buskey (JE),          Buskey (JL), Campbell, Carothers,          Carter, Clark (J), Clark (W), Clay,          Coburn, Colvin, Cosby, Crow,          Curry, Dillard, Drake, Escott,          Flowers, Ford, Frazier, Freeman,          Gaston, Goodwin, Gray, Grayson,          Grouby, Gullatt, Hall, Hamilton,          Hammett, Harper, Harvey,          Haynes, Headley, Higginbotham,          Hill, Hogan, Holley, Holmes,          Hooper, Johnson (RG),          Johnson (RW), Kennedy, Knight,          Kvalheim, Layson, Lindsey,          Logan, Marietta-Lyons, Marks,          Mathis, McClain, McDowell,          McKee, McMillan, Melton,          Mikell, Moon, Newman,</p>
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Newton (C), Newton (D), Parker,  
Payne, Penry, Perdue, Petelos,  
Poole, Rains, Rogers, Sanderford,  
Seibels, Slaughter, Spratt,  
Starkey, Thomas, Turner,  
Turnham, Venable, Walker,  
Warren, White (G), Williams,  
Willis, Wright and Zoghby

### HOUSE JOINT RESOLUTION

RECOGNIZING THE VALUABLE STATE SERVICE PROVIDED BY THE ALABAMA DEPARTMENT OF VETERANS AFFAIRS; AND FURTHER RECOMMENDING THAT SAID AGENCY BE INCLUDED IN FUTURE BUDGET HEARINGS BEFORE THE INTERIM LEGISLATIVE COMMITTEE ON FINANCES AND BUDGETS.

WHEREAS, the Alabama Department of Veterans Affairs provides professional assistance and services to the thousands of men and women in Alabama, who have served in every branch of the United States Armed Services, and to their dependents and survivors; and

WHEREAS, the Alabama Department of Veterans Affairs also administers the Alabama G.I. and Dependent Educational Benefit Act; and

WHEREAS, the Alabama Department of Veterans Affairs has historically not appeared before the Alabama Legislature's Interim Committee on Finances and Budgets to provide testimony regarding professional performance, services, and budgetary needs; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Department of Veterans Affairs be scheduled in the future to appear before the Interim Legislative Committee on Finance and Budgets.

Approved May 3, 1990

Time: 4:45 P.M.

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Act No. 90-691

H.J.R. 590—Reps. Gray and Rains

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MR. JOE L. SANDERS OF EUTAW, ALABAMA.

WHEREAS, in sentiment of deep sorrow, the Legislature of Alabama records the lamentable death of Mr. Joe L. Sanders of Eutaw, Alabama, on March 31, 1990; and

WHEREAS, born August 21, 1921, in Benevola in Pickens County, he attended Greene County High School; and

WHEREAS, a veteran of world War II, where he served in the Pacific theater of operations in the U. S. Army, he retired from State Farm Insurance in 1987 after 33 years with the company; and

WHEREAS, he served on the city council from 1954 until his appointment as mayor in 1980; he was elected as mayor in 1984 and 1988; and

WHEREAS, under his administration, the airport was greatly improved and the water system was upgraded; and

WHEREAS, Mayor Sanders was a devoted member of the Eutaw Baptist Church where he served as a deacon, trustee, associate Sunday school director and for many years was secretary; and

WHEREAS, the mayor also served on the West Alabama Planning and Development Board, the Greene County Industrial Board and the League of Municipalities; he was a member of the American Legion Post 67 and an active member of the VFW Local Post 5375; and

WHEREAS, he exhibited throughout his life those admirable attributes of friendliness, devotion to duty, and concern for his fellowman; and

WHEREAS, Mayor Sanders gained the respect and fond feelings of those who knew him whether friend or mere acquaintance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Joe L. Sanders of Eutaw, Alabama, and extend sincere and deepest sympathy to his wife, Gladys Drummond Sanders; his son, Joe Carroll Sanders; his grandchildren, Joe Lewis and Nicholas Heath Sanders, and other family members, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved May 3, 1990

Time: 4:46 P.M.

# HOUSE JOINT RESOLUTION

COMMENDING DOLPH SOUTHERLAND FOR EXTRAORDINARY ACHIEVEMENT.

WHEREAS, the Legislature of Alabama in a desire to recognize outstanding achievement by young Alabamians, today notes the extraordinary accomplishment of Dolph Southerland of Boaz High School, Boaz, Alabama; and

WHEREAS, he has been accepted by the oldest and most prestigious training school for United States Army Officers—West Point, which was announced by United States Senator Richard Shelby and United States Representative Tom Bevill; and

WHEREAS, Mr. Southerland is the sixth student from Boaz High School to be accepted to the U. S. Military Academy at West Point; and

WHEREAS, the Academy at West Point is extremely selective in accepting new cadets, selecting only 1,000 out of 15,000 applications received with each congressman, along with the Vice President and the President nominating a certain number of students for acceptance; and

WHEREAS, not only does young Dolph Southerland excel in academics but athletically, as well, in baseball, football, wrestling and basketball, and made All-County as second baseman in baseball as a junior and All-County Honorable Mention as quarterback in football in 1989; and

WHEREAS, academically, Southerland has taken college preparatory courses in English, Chemistry, Trigonometry and Physics and will graduate as an Advanced Distinguished Scholar with a grade point average of 3.85 on a scale of 4.00; and

WHEREAS, he has participated in numerous school clubs and is president of the National Honor Society, member of the Math Honor Club, Junior Civitans, Students Against Drunk Driving and Fellowship of Christian Athletes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of extraordinary achievement, we hereby commend Dolph Southerland of Boaz High School, Boaz, Alabama, an outstanding scholar-athlete whom we hold in highest regard and for whom a copy of this resolution shall be provided.

Approved May 3, 1990

Time: 4:47 P.M.

Act No. 90-693

H. 287—Rep. Harper

## AN ACT

To make an appropriation to the Alabama Humanities Foundation for the fiscal year ending September 30, 1991 and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the fiscal year ending September 30, 1991 the sum of fifty thousand dollars (\$50,000) out of the funds in the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 4:48 P.M.

Act No. 90-694

H. 154—Rep. Campbell

## AN ACT

To amend Section 40-6A-2, Code of Alabama 1975, relating to compensation of tax assessors, tax collectors, revenue commissioners, license commissioners or other officials whose primary duty is assessing and/or collecting ad valorem taxes in the various counties of this state, so as to increase the minimum salary provided for such officials, change the population brackets, and provide an effective date at the beginning of the next term of office of such officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-6A-2, Code of Alabama 1975, is hereby amended to read as follows:

“§40-6A-2.

“On and after the effective date of this amendatory act, and upon approval by the county governing body of a resolution of authorization, the tax assessors, tax collectors, revenue commissioners,



license commissioners, or other officials whose primary duty is assessing and/or collecting ad valorem taxes in the various counties of this state, shall be compensated by an annual salary, each of such officials to receive as a minimum, except as hereinafter provided, an annual salary in the amount specified by the following schedule:

IN COUNTIES HAVING A POPULATION OF:	ANNUAL SALARY
25,000 or less	\$32,500.00
25,001 to 75,000	37,500.00
75,001 to 119,000	40,000.00
More than 119,000	42,500.00

Provided, however, that in all counties wherein an elected assistant tax assessor or assistant tax collector has been or may hereafter be established by law to function separate and apart from the office of tax assessor or tax collector in such counties, the salary for such elected assistant officials shall be 90 percent of the salary established herein for the tax assessor or tax collector in such counties. Provided further, that in all counties wherein the offices of tax assessor and tax collector have been or may hereafter be combined, the official holding such combined office, by whatever title, shall receive a minimum annual salary of \$10,000.00 greater than the minimum prescribed for his county in the above schedule. The salary for such officials in each of the various counties of this State shall be determined according to the above specified schedule based upon the 1980 federal decennial census. The salaries, as above determined, shall be paid on a pro rata basis out of the monies collected each tax year into the general fund of each respective county of the State, and thereafter paid from said fund to such officials in equal installments. The pro rata share of the officials' salaries to be paid by each fund or agency receiving ad valorem taxes, shall be determined in each county by computing the percentage that the total collections for each fund or agency bears to the total collections of ad valorem taxes. With respect to any municipality in which that municipality's pro rata share of the officials' salaries provided for in this section is greater than the fees or commissions being paid by said municipality for assessment and collection of ad valorem taxes for the tax year immediately prior to such municipality becoming subject to the provisions of this section, the payment of such pro rata share by the municipality shall be in lieu of such fees or commissions. With respect to any municipality in which that municipality's pro rata share of the officials' salaries provided for in this section is equal to or less than the fees or commissions being paid by said municipality for assessment and collection of ad valorem taxes for the tax year immediately prior to such municipality becoming subject to the

provisions of this section, the payment of such fees or commissions by the municipality shall be in lieu of such pro rata share. The pro rata share of salaries each fund or agency shall pay during the first year after implementation of this section shall be based upon the collections made during the tax year next preceding the effective date of election to come under this act, and adjusted from year to year as may be necessary."

**Section 2.** Any provision to the contrary notwithstanding, contained in this amendatory act or in Section 40-6A-2, Code of Alabama 1975, this act shall take effect upon the effective date hereinafter provided, in every county of this state in which the county governing body has heretofore passed the resolution of authorization initially required to adopt the provisions of this act within such counties.

**Section 3.** Any provision to the contrary notwithstanding, the salary of every official presently paid under the provisions of Title 40, Chapter 6A, Code of Alabama 1975, shall be increased by \$7,500.00 upon the effective date of this act, as hereinafter provided.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The salaries provided in this act shall become effective for the officials covered herein upon the first day of the commencement of the next term of office of such officials following the passage of this act.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:49 P.M.

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Act No. 90-695

H. 789—Rep. Butler

## AN ACT

Pertaining to Madison County; to provide for the protection of abused, neglected and abandoned children; to provide for the creation of a fund from which to employ the necessary personnel to assist the juvenile court of said county in further providing for the care and protection of said children; to assess an additional court cost in all cases filed in the district court of said county and to provide for the disbursement thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In order to further provide for the protection and welfare of children in Madison County who are alleged to be or have been found by the juvenile court of said county to be abused or neglected or otherwise "dependent" as defined by Code of Alabama 1975, Section 12-15-1(10), there is hereby levied and imposed a court cost of two dollars (\$2.00), in all cases filed in the district court of said county, which shall be in addition to all other costs previously imposed. The clerk of said court shall collect such costs and remit the same to a fund to be designated as "The Child Protection Fund" in the county treasury.

**Section 2.** Disbursement of funds derived from the sums collected pursuant to Section 1 of this act shall be subject to the approval of the Madison County Juvenile Court Advisory Board and shall be used to provide for the protection, treatment and care of those children referred to in Section 1. The use of all or part of such funds to employ and train personnel whose responsibility it shall be to supervise, recruit and train unpaid volunteers appointed by the juvenile court of Madison County to investigate and report to the court on cases involving abused and neglected children is specifically authorized by this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:50 P.M.

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Act No. 90-696

H. 925—Rep. Butler

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the City of Madison in Madison County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the City of Madison in Madison County are hereby altered, rearranged and extended so as to include within the corporate limits of said

municipality, in addition to the lands now included, all of the following territory, to-wit:

Beginning at a point at the intersection of the south margin of U. S. Highway No. 72 and the west boundary of Section 27, T3S, R2W, Madison County, Alabama, said point also being on the Madison Corporate Limits Line, thence north along said west boundary of Section 27 to the centerline of said U.S. Highway 72; thence northeasterly and parallel to the south margin of U. S. Highway No. 72 along said centerline of U. S. Highway No. 72 to the intersection of the old Chickasaw Boundary; thence southeasterly along said old Chickasaw Boundary to the south margin of U. S. Highway No. 72, said point being on the Madison Corporate Limits Line; thence southwesterly along the said south margin of U. S. Highway 72 and Madison Corporate Limits to the point of beginning, also beginning at a point on the intersection of the south margin of U. S. Highway No. 72 and the west margin of Rainbow Drive, said point also being on the Madison Corporate Limits; thence northeasterly along the extended west margin of Rainbow Drive to the centerline of said U. S. Highway No. 72; thence easterly along said centerline of U. S. Highway No. 72 to the extended west boundary of Hughes Hill Subdivision as of record in Plat Book 1, Page 204, Probate Records, Madison County, Alabama; thence southerly along said west boundary of Hughes Hill Subdivision to the south margin of said U. S. Highway No. 72, said point also being on the Madison Corporate Limits; thence westerly along said south margin of U. S. Highway No. 72 and the Madison Corporate Limits to the said west margin of Rainbow Drive, said point also being the point of beginning.

**Section 2.** In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the City of Madison is on file in the office of the Judge of Probate in Madison County, Alabama, and such map is open to the inspection of the public.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:51 P.M.

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Act No. 90-697

H. 991—Rep. Harper

## AN ACT

Relating to Mobile County; to provide for the creation, maintenance and regulation of districts for fighting or preventing fires, to prescribe conditions and regulations

relative to the creation of such districts; to prescribe the organization, rights and powers of such districts; to prescribe limitations on such rights and powers; to provide for the composition and tax exemption of such districts; to provide for a referendum and to provide for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply to Mobile County, Alabama.

**Section 2.** The following words and terms as used in this act shall have the following meanings ascribed to them, unless a contrary meaning is apparent from the context: "district for fighting fires" shall mean a district created under this act for establishing and maintaining a system for fighting or preventing fires; "district for fire fighting and emergency medical services" shall mean a district created under this act for establishing and maintaining a system for fighting and preventing fires and a system for the operation of emergency medical services.

**Section 3.** Any area situated entirely within the county may be established as a district for fighting fires as provided herein. Provided, however, no land lying within the boundaries of a municipality or an existing fire fighting and emergency medical services district at the time of the election shall be included in a newly established district.

**Section 4.** Upon a petition being filed in the office of the probate judge of the county, the judge shall order an election to be held in the proposed district on the question, or questions, on which the petition requests an election.

The petition shall be signed by at least 100 qualified property owners within the boundaries of the proposed district.

The petition shall contain a description of the area proposed to be established as a district and shall request the probate judge to call an election on the following question: Shall there be created for the area a district for fighting fires?

The petition shall state the name of the proposed district. The board of trustees of a district may change the name of the district by filing in the office of the probate judge a copy of a resolution changing the name thereof, which copy shall be certified by the president of the board of trustees.

The petition for election on the establishment of a district may be accompanied by a petition for a referendum on the question of levying a proposed service charge, signed by at least 100 qualified property owners residing within the proposed district. A petition for an election on the establishment of a district shall be deemed to be accompanied by a petition for an election on the question of levying a proposed service charge, if the request for the election on the

proposed district and the request for an election on the proposed service charge are combined in a single petition.

**Section 5.** When a petition for the holding of any election is filed with the probate judge, the probate judge shall order the election sought by the petition to be held on a day not less than thirty days nor more than forty calendar days from the date on which the probate judge enters said order. No such election pertaining to the establishment of the same district or portion thereof shall be held more often than once every two years.

**Section 6.** The provisions of the election laws governing the registration of voters, equipment at polling places, furnishing of supplies, appointment of election officers, voting and canvassing returns at a general election shall apply to any election held pursuant to this act.

**Section 7.** The probate judge shall give notice of any election held under this act by publishing for three weeks, at least once a week, on the same day of each week, in a newspaper of general circulation in the territory where said election is to be held, a notice that on the day fixed for the election the question to be then voted on will be submitted to the electors of the said territory.

**Section 8.** Where an election is held on the question of the establishment of a district, the county commission shall pay for the necessary expense of advertising and conducting such election out of the general funds of the county. Provided, however, that if the district is established, the district shall reimburse the county for the expenses incurred by the county in respect to said election.

After a district has been established, the district shall pay the expense of any election held in the district or held in any area which it is proposed be added to the district.

**Section 9.** No district shall be created unless it is approved by the majority of votes cast at the election at which the proposed creation is submitted. Upon the officers canvassing the returns of the election certifying that the creation of the district was approved by the majority of the votes cast at such election, the proposed district shall be created and shall constitute a public corporation.

**Section 10.** The affairs and business of the district shall be managed by a board of trustees consisting of five members who shall be elected by the qualified electors of the district. Such election shall be held at the same time and conducted by the same election officials as regular county elections. No person shall be elected to said board unless he is a property owner of the district. Election shall be for a term of four years; provided, however, two of the initial five members

shall be for a term of two years, two shall be for a term of three years, and one shall be for a term of four years.

The board of trustees shall elect annually from its own number a president and secretary. The members of the board of trustees shall not be entitled to any compensation for their services, but shall be entitled to reimbursement for all reasonable expenses incurred by them in the performance of their duties.

**Section 11.** The district shall constitute a public corporation, which shall have the power to do any and all acts or things necessary and convenient for carrying out the purposes for which it is created including, but not limited to: to sue and be sued; to have a seal and alter the same at pleasure; to acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the board shall determine; to acquire, own, operate, maintain and improve a system or systems; to pledge all or any part of its revenues, or mortgages, or otherwise encumber, all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations; to sell, lease, mortgage, or otherwise encumber or dispose of all or any of its property, as hereinafter provided; to contract debts, borrow money and to issue or assume the payment of obligations; to levy and collect service charges, as herein provided in this act, subject to limitations prescribed in said act; to negotiate and enter into contracts with residents of areas outside the district or with other districts to furnish fire and/or emergency medical protection and to charge fees for such service; to employ agents, servants, and attorneys; to perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

The property and income of the district, all bonds issued by the district, the income from such bonds, conveyances by or to the district, and leases, mortgages and deeds of trust by or to the district shall be exempt from all taxation in the State of Alabama, including specifically the tax imposed by Section 40-21-82 of the Code of Alabama 1975. The district shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities that a district may engage in. The district shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation, or the recording of any document. The provisions of

section 11 shall be retroactive and shall apply from the date the district was first established.

**Section 12.** (a) The expense of establishing and maintaining a district shall be paid for by the proceeds of a service charge which shall be levied and collected in an amount sufficient to pay said expense. Said service charge shall be levied upon and collected from persons and properties served by the system. Such charge shall be a personal obligation of the owner of the property served by the system, and to secure the collection of the charge there shall be a lien against said property in favor of the district, which lien shall be enforceable by sale thereof in the same manner in which the foreclosure of a municipal assessment for public improvements is authorized.

(b) A property owner who owns a structure, used solely as a residence, which at the time of its original construction was situated on a county line, may avoid the payment of a service charge which is based upon the presence of such structure, if: (1) between January 1, 1990, and the effective date of this act, such structure was not assessed for taxes in Mobile County; (2) between January 1, 1990, and the effective date of this act, any homestead exemption was not claimed for such structure in reduction of taxes assessed in Mobile County, (3) the property owner furnishes proof to the district, of an agreement between such property owner and another district or municipality located in the county within whose boundaries the remaining portion of the structure is located, to provide fire fighting and emergency medical services to such property owner's property so long as the structure is existent; and (4) the property owner furnishes to the district, a. an irrevocable waiver of liability absolving the district from any and all liability for failure to respond to calls for fire fighting or emergency medical services to any portion of such owner's property contiguous to the aforesaid structure, and b. an agreement that any service charges imposed with respect to future construction on the property shall constitute a lien upon the entire property located within the district, including the property upon which the residence is situated.

(c) The provisions of subsection (b) may be applied retroactively in respect of unpaid service charges if (1) in the opinion of the board of trustees the waiving of previously imposed service charges will have no significant impact on the financial viability of the district; and (2) the district has long term debt outstanding, the aggregate amount of which is such that retroactive waiver for all properties covered by subsection (b) is no more than one-tenth of one percent (0.1%) of the amount of such long term debt then outstanding.

**Section 13.** No service charge shall be levied unless the same has been first approved by the majority of the votes cast at an



election held hereunder by the qualified electors residing within the district, or within the proposed district.

An election on the question of levying a service charge in a proposed district may be held at the same time that the election is held on the creation of the district, provided that the petition for the election on the question of the service charge accompanies the petition for the election on the establishment of the proposed district as provided in section 4. An election on the question of a service charge may be held upon the board of trustees of a district submitting to the probate judge a petition for such election as hereinafter provided. The board of trustees shall file in the office of the probate judge a petition that he call an election in the district on the question of whether the service charge proposed by the trustees shall be levied.

The petition shall state specifically the charge proposed to be levied. The petition may request that an election be held on more than one proposed charge. Upon the petition being filed with the probate judge, he shall order an election to be held within the time provided for by section 5. Notice of election shall be given as provided by section 7.

**Section 14.** (a) A district may be enlarged, provided, that no area lying within a municipality at the time of the enlargement shall be brought within the district.

(b) No area shall be brought within a district by enlargement unless the majority of the votes cast at the election provided for by subsection (c), approve the inclusion of the area within the district and also approve every service charge in effect within the district at the time of election.

(c) The term "proposed area," as used in this subsection, means an area proposed to be brought within a district by enlargement of the district. When the board of trustees of a district determines that the inclusion of a proposed area within the district would be to the advantage of the district and also to the advantage of the majority of the property owners of the proposed area, the board of trustees may file in the office of the probate judge a petition, signed by 2/3 of property owners, that there be an election in the proposed area at which there shall be submitted to the qualified electors residing within the proposed area the question of whether the proposed areas shall be included within the district and also the question of whether every service charge in effect within the district at the time of the election is approved. Upon such petition being filed, the probate judge shall order an election to be held within the proposed area, within the time provided for in section 5, at which election the qualified electors residing within the proposed area shall vote on the two foregoing questions. Unless the majority of votes cast at the

election vote in the affirmative on each of the foregoing questions, the proposed area shall not be included within the district. Upon the officers' canvassing the returns of the election certifying that a majority of votes cast was in favor of the inclusion of the proposed area in the district, and that the majority of the votes cast approved every service charge in effect within the district at the time of the election, the proposed area shall become a part of the district.

**Section 15.** Any district may be abolished in the manner provided for in this section; provided, however, that no district shall be abolished or diminished when it has any indebtedness.

Upon the petition for abolition of a district, being filed with the probate judge, he shall order an election on abolition of the district to be held in the district within the time provided for by section 4. The qualified electors residing within the district shall be entitled to vote in the election. The petition shall be signed by at least 100 qualified property owners of the district. It shall contain a recital that the district is not indebted, and it shall request the probate judge to order an election on whether the district shall be abolished. Upon the officers' canvassing the returns of the election certifying that abolition of the district was approved by a majority of the votes cast at the election, the district shall be abolished.

**Section 16.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 17.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 18.** This act shall become effective upon the adoption of an amendment to the Constitution of Alabama authorizing the provisions of this act.

Approved May 3, 1990

Time: 4:52 P.M.

Act No. 90-698

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H. 511—Reps. Buskey (JL), Campbell, McKee, Kennedy, Turnham, Newman, Johnson (RW), Poole, Bowling, Buskey (JE), Holley, Grouby, Walker, McClain, Thomas, Clay,

Gaston, Kvalheim, Brooks,  
Mathis, Spratt and Escott

### AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the AIDS Task Force of Alabama, Inc., for the fiscal year beginning October 1, 1990, for programs to help prevent the spread of AIDS; to require an operations plan and audited financial statement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated the sum of \$260,000 from the Alabama Special Educational Trust Fund to the AIDS Task Force of Alabama, Incorporated, for the fiscal year which begins October 1, 1990, for educational programs to help prevent the spread of AIDS. Funds appropriated herein are for disbursement to the various AIDS prevention community-based organizations in Alabama according to a plan to be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated.

**Section 2.** Prior to the release of any funds appropriated herein, an operations plan for fiscal year 1990-91 must be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated, submitted to and approved by the State Health Department and the HIV Education Advisory Board and then forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following the receipt of the operations plan by the Director of Finance. The HIV Education Advisory Board shall consist of six members as follows: the state health officer or his designee; one assistant state health officer appointed by the state health officer; one physician appointed by the Infectious Disease Society of Alabama who is selected from a list of physicians who routinely treat HIV infection; two representatives appointed by the American Red Cross of which one must be a health educator; and, the Chairperson of the AIDS Task Force of Alabama community-based organization committee. An audited financial statement of the expenditures shall be submitted to the state Finance Director at the end of the fiscal year.

**Section 3.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 4:53 P.M.

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Act No. 90-699

H. 138—Reps. Venable and Campbell

### AN ACT

To amend Sections 17-16-6, 17-16A-1, 17-16A-3 and 17-16A-6, Code of Alabama 1975, relating to political party primary elections and presidential preference primary

elections, so as to provide that presidential preference primaries shall be held at the same time as primary elections in years in which a President is to be elected and to provide that delegates to the national conventions may be elected at the runoff primary elections; and to provide further for presidential preference primary elections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 17-16-6, 17-16A-1, 17-16A-3 and 17-16A-6, Code of Alabama 1975, are hereby amended to read as follows:

“§17-16-6.

“Presidential preference primaries and primary elections, except special primary elections, held at the expense of the state or counties, shall be held on the first Tuesday in June. When necessary, as provided in this chapter, a second or runoff primary election shall be held on the last Tuesday in June following said primary election. Any second primary shall be held by the same election officers who held the first primary, and be held at the same places as the first primary election. No primary shall be held by any political party except as herein provided. Primary elections herein provided for shall be held at the regular polling places established for the purpose of holding general elections.

“§17-16A-1.

“(a) Primary elections for the purpose of determining the preferred candidates for President of the United States shall be held in conjunction with the primary elections on the first Tuesday in June of each year in which a President is to be elected.

(b) “Subject to rules and procedures of the political party of any such presidential candidate, the names of any candidates for delegate to the national conventions pledged to a presidential candidate shall be placed under his name and such delegates shall be elected in the primary election on the first Tuesday in June of each year as provided herein.”

“§17-16A-3.

“In order to qualify the name of any person to appear on the ballot at a presidential preference primary, a petition or petitions in support of his candidacy must be filed with the state party chairman of the appropriate political party, hereinafter referred to as ‘chairman,’ after March 1 of the year in which the presidential preference primary is to be held and before March 15 of that same year. To comply with this section, a candidate may file a petition or petitions signed by a total of not less than 500 qualified electors of the state, or petitions signed by not less than 50 qualified electors of each congressional district of the state, in which case there shall be a separate petition for each congressional district. The petitions shall be in such form as the chairman may prescribe; provided, that there shall be a

space for the county of residence of each signer next to the space provided for his signature. No signature may be counted as valid unless the county of residence of the signer is provided. Each petition shall contain an affirmation under the penalties of perjury that each signer is a qualified elector in his congressional district or in the state, as appropriate. The decision of the chairman as to the regularity of the petitions shall be final.

“§17-16A-6.

“Each political party authorized to hold a primary and wishing to hold such a presidential preference primary shall, not less than 60 days before such primary is to be held, adopt and file with the secretary of state a resolution stating said intention, the method by which electors are to indicate one or more preferences, the method by which delegates are to be selected, elected, chosen and replaced, and the pledge, if any, by which delegates are to be bound.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:54 P.M.

Act No. 90-700

S.J.R. 249—Senators Dial and Hale

## SENATE JOINT RESOLUTION

### NAMING THE BENNETT-BREEDLOVE ACT.

WHEREAS, the Legislature recognizes that the problems of alcohol and drug abuse among the citizens of Alabama are extensive and that alcohol and drug abuse or dependency have been identified as contributing factors in the commission of many crimes; and

WHEREAS, the Legislature realizes the need to establish a specialized court referral officer program to promote the evaluation, education and rehabilitation of persons whose use of alcohol or drugs contributed to the commission of an offense for which they were convicted; and

WHEREAS, S.B. 268 of the 1990 Regular Session provides for a statewide alcohol and drug abuse court referral officer program and an indigent alcohol and drug abuse offender treatment program to provide assistance to the courts in the education and rehabilitation of defendants convicted of alcohol and drug related offenses; and

WHEREAS, the establishment of the court referral officer program is to the credit of Senator Jim Bennett and Representative Mike Breedlove, the primary proponents and supporters of S.B. 268; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the act which S.B. 268 of the 1990 Regular Session becomes is hereby named and shall forever be known as the Bennett-Breedlove Act.

Approved May 3, 1990

Time: 5:00 P.M.

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Act No. 90-701

S.J.R. 252—Senator Denton

SENATE JOINT RESOLUTION

AFFIRMING THE TERRITORIAL AGREEMENT BETWEEN THE CITIES OF MUSCLE SHOALS AND TUSCUMBIA.

WHEREAS, the Legislature of Alabama notes that the boundary between the City of Muscle Shoals and the City of Tuscumbia has been in dispute for a number of years; and

WHEREAS, an understanding has recently been agreed upon by the aforementioned cities; and

WHEREAS, we find this agreement to be one that is equitable, just and reasonable; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby affirm and ratify the agreement worked out between the City of Muscle Shoals and the City of Tuscumbia and commend the extensive efforts of the officials involved.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the officials of Muscle Shoals and Tuscumbia as evidence of our affirmation and ratification.

Approved May 3, 1990

Time: 5:01 P.M.

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Act No. 90-702

S. 77—Senator Covington

AN ACT

Relating to the compensation of probate judges in this state who are paid on a salary basis; to amend Section 12-13-20, Code of Alabama 1975, relating to compensation of salaried probate judges; so as to provide for an annual additional salary

increase for each salaried probate judge phased in at \$5,000.00 per year from October 1, 1990, through October 1, 1992, a total of \$15,000.00, and to provide maximum annual compensation amounts payable to salaried probate judges.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-13-20, Code of Alabama 1975, is hereby amended to read as follows:

“§12-13-20.

“(a) No probate judge who is on a salary and who serves as chairman of the county commission shall receive total compensation less than \$35,000.00 per year beginning on October 1, 1985, and less than \$40,000.00 per year beginning on October 1, 1986, for serving as chairman and probate judge. This section in no way affects probate judges earning more than \$35,000.00 per year on October 1, 1985 and more than \$40,000.00 per year on October 1, 1986.

“(b) No probate judge who is on a salary and who does not serve as chairman of the county commission shall receive total compensation less than \$32,500.00 per year beginning on October 1, 1985, and less than \$37,500.00 per year on October 1, 1986. This section in no way affects probate judges earning less than \$32,500.00 per year on October 1, 1985, and more than \$37,500.00 per year on October 1, 1986.

“(c) On October 1, 1990, and on October 1, 1991, and on October 1, 1992, each probate judge in this state who is paid on a salary basis shall receive an additional annual salary increase of \$5,000.00 on each of said three dates, for a total increase of \$15,000.00 over the said three year period, payable on and after October 1, 1992.

“(d) No probate judge who is on a salary and who serves as chairman of the county commission shall receive total compensation more than \$55,000.00 per year beginning on October 1, 1990. This section in no way affects probate judges earning more than \$55,000.00 per year on October 1, 1990.

“(e) No probate judge who is on a salary and who does not serve as chairman of the county commission shall receive total compensation more than \$52,500.00 per year beginning on October 1, 1990. This section in no way affects probate judges earning more than \$52,500.00 per year on October 1, 1990.

“(f) Any necessary funds needed to ensure a probate judge shall receive the total respective compensations herein provided shall be paid out of the respective county’s general fund.

“(g) The provisions of this section shall not affect the compensation of probate judges of counties where said judges are compensated on the basis of the fee system.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:03 P.M.

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Act No. 90-703

S. 594—Senators Windom, Bedsole  
and Figures

AN ACT

To provide a supplement to the salaries of Circuit and District Court confidential secretaries in the Thirteenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to the salaries paid to the confidential secretaries serving in the circuit or district court of the Thirteenth Judicial Circuit by the State, there may also be paid to each of said secretaries a supplemental salary not to exceed the sum equal to forty percent (40%) of the salary paid to each of said secretaries by the State. At the discretion of the Mobile County Commission, said supplemental salary shall be paid out of the general fund of the county in equal installments at the same time and in the same manner that the salaries of other county employees are paid.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:04 P.M.

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Act No. 90-704

S. 610—Senator Lipscomb

AN ACT

Relating to Baldwin County; to define a coroner's investigation; to provide for qualifications and training; to limit coroners' investigations; to provide the types of deaths the coroner shall investigate; to provide instances when postmortem examination and autopsies shall be performed by a state medical examiner; to provide for the



taking charge of certain bodies and the authority to remove certain evidence from the body; to provide for the certification of certain deaths; to provide for the review of pertinent medical records and the power to subpoena said records; to require the reporting of deaths to the coroner and to prohibit altering a body or evidence; to provide for notification of next of kin and accounting for personal effects; to provide for the costs of assistance; to exempt the Baldwin County Coroner and state medical examiners from certain liability; to provide for the admission of reports into evidence; and to provide that this act shall not apply in certain instances.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. CORONER'S INVESTIGATION.** A coroner's investigation shall mean a process of collecting pertinent information concerning the circumstances surrounding the death of an individual, and background information, including all, but not limited to medical information, which may be helpful in determining the cause and manner of death, or the identification of the deceased. A coroner's investigation does not include criminal investigation responsibilities.

**Section 2. QUALIFICATIONS.** The county coroner must have a high school education and/or an equivalent degree. The county coroner prior to beginning his first term and all deputy coroners prior to their first such appointment shall complete at least a 40-hour coroner's death investigation course comparable to the standard course designed for death investigators by the National Association of Medical Examiners. After their first year of service, all coroners and deputy coroners shall attend not less than 40 hours of coroner's death investigation training during each calendar year that they serve and certification made and recorded in the Probate Office of Baldwin County and attend at least one Alabama Coroner's Association meeting during each calendar year that they serve.

**Section 3. LIMITATION OF A CORONER'S INVESTIGATION.** (a) A coroner's investigation is limited to inquiries for determining the cause and manner of death, the identity of the deceased and circumstances surrounding death.

(b) If the coroner investigation reveals any evidence of suspicion or foul play in regard to the death, he shall immediately notify the proper law enforcement agency and shall cooperate fully in such law enforcement agency's criminal investigation.

**Section 4. DEATHS TO BE INVESTIGATED BY THE BALDWIN COUNTY CORONER.** The county coroner may conduct a coroner's investigation of any death in Baldwin County when the death shall fall within one or more of the following categories:

(1) Any death that occurs suddenly and unexpectedly, that is, when the person has not been under medical care for significant heart, lung, or other disease;

(2) Any death suspected to be due to violence, or resulting from suicidal, accidental or homicidal injury, regardless of when or where the injury occurred;

(3) Any death suspected to be due to alcohol, drugs or exposure to toxic agents;

(4) Death due to poisoning;

(5) All deaths of persons in the custody of law enforcement officers, penal institutions or state mental institutions;

(6) Deaths suspected to be involved with the decedent's occupation;

(7) Death unattended by a physician;

(8) Any death due to neglect;

(9) Any stillbirth of 20 or more weeks' gestation unattended by a physician;

(10) Deaths due to criminal abortion;

(11) Any death of an infant or child under 19 years of age where the medical history has not established some preexisting medical condition to clearly explain the death and the preterminal circumstances;

(12) Deaths which are possibly directly or indirectly attributable to environmental exposure not otherwise specified;

(13) Any death suspected to be due to infectious or contagious disease wherein the diagnosis and extent of the disease at the time are undetermined;

(14) Any death occurring under suspicious or unusual circumstances;

(15) When a body is to be cremated, dissected or buried at sea; or

(16) When a body is brought into the country without proper medical certification.

**Section 5. POSTMORTEM EXAMINATION AND AUTOPSIES.** When the Baldwin County coroner determines a death under his investigation is one described in Section 4 above, he may, and upon request, shall be assisted by a state medical examiner in the Alabama Department of Forensic Sciences, as necessary, to help determine the cause and manner of death or to provide other information to the coroner or investigating law enforcement agency. The state medical examiner may, upon request, assist by reviewing the coroner's case file and the circumstances of the death, and/or

by conducting an external examination of the body and/or by conducting an autopsy on the body under the following circumstances:

(1) An autopsy or postmortem examination will be performed by a state medical examiner at the written direction of the district attorney or his authorized representative in any case in which the district attorney is conducting a criminal investigation.

(2) In a death where the Baldwin County coroner or state medical examiner does not deem it advisable and in the public interest that an autopsy be performed, the state medical examiner, or his designated pathologist, may perform the autopsy and the cost thereof shall be paid by the next of kin, funds to be deposited in the state treasury for the Department of Forensic Sciences.

**Section 6. COUNTY CORONER OR STATE MEDICAL EXAMINER MAY TAKE CHARGE OF BODIES.** While conducting a coroner's investigation of a death hereunder, the Baldwin County coroner or state medical examiner shall be authorized to take charge of the dead body, and he or a law enforcement officer having jurisdiction may take possession and examine or have examined related physical evidence on or about the body at the scene as may be useful in establishing identity of the deceased and/or the cause, manner and circumstances of death. The Baldwin County coroner is authorized to take or order the taking of certain tissues and fluids under Section 22-19-80 of the Code of Alabama 1975. When a state medical examiner takes charge of a body, he is authorized to take, retain and examine or have examined whatever tissues, biological fluids or other evidence from the body he deems necessary to determine the cause, manner, and circumstances of death and the identity of the deceased.

**Section 7. RESPONSIBILITY TO CERTIFY DEATHS.** If after conducting a coroner's investigation of a death, the Baldwin County coroner or his designated deputy coroner is satisfied that the death was not caused by criminal act of omission, that there are no suspicious circumstances about the death, that the law enforcement agency of jurisdiction has no questions about the death, and that he knows to a reasonable certainty the cause of death, then he or his designated deputy coroner may execute a death certificate in the form required by law and authorize release of the body for final disposition of a certificate as prescribed by the State Health Department. If the deceased is unidentified or if the Baldwin County coroner suspects a death was caused by a criminal act or omission or if the cause of death is obscure or if the law enforcement agency of jurisdiction has questions about the death, the coroner shall ask a medical examiner for assistance in the death investigation. The state medical examiner or a qualified pathologist under his direction, may then execute a death certificate in the form required by law

and authorize release of the body for final disposition on a certificate as prescribed by the State Health Department or provide the cause and manner of death to the coroner so the coroner can execute the death certificate. If the state medical examiner executes the death certificate, he shall furnish a copy to the coroner at the time of execution.

**Section 8. HOSPITAL AND MEDICAL RECORDS.** While conducting a coroner's investigation of a death hereunder, the Baldwin County coroner or a state medical examiner or the director of the Alabama Department of Forensic Sciences is authorized to issue subpoenas for the production of pertinent medical records, radiographs and biological tissues and fluids as may be required by his investigation to determine the cause and manner of death.

**Section 9. DUTY TO REPORT DEATHS; ALTERATION OF BODY EVIDENCE PROHIBITED.** It shall be the duty and responsibility of any person in the county having knowledge concerning a death occurring under the categories defined in Section 4 of this act to report such death promptly to the Baldwin County coroner or to any law enforcement agency who, in turn, shall promptly report the same to the Baldwin County coroner. Deaths reportable to the Baldwin County coroner must be reported whether the cause is known or suspected, primary or contributory, or recent, delayed, or remote. No one shall disturb or remove the body or human remains or evidence on the body until authorized by the Baldwin County coroner or his designee except for the purpose of preserving such body or remains from loss or destruction. No person shall knowingly fail to make such report or withhold related medical or other evidence, or willfully alter the body or related evidence without the authority of the county coroner and outside the exceptions stated.

**Section 10. DUTY TO NOTIFY NEXT OF KIN AND ACCOUNT FOR PERSONAL EFFECTS.** The county coroner or any law enforcement officer having jurisdiction and with approval of the county coroner shall take possession of personal effects on or about the dead body and ascertain that the next of kin is notified in regard to the death. Such personal effects may (1) be retained as evidence if deemed necessary, or (2) forthwith be returned to the next of kin.

**Section 11. COST OF ASSISTANCE.** The assistance provided by the Alabama Department of Forensic Sciences through its state medical examiners or other scientists, employees or agents shall be provided without fee to Baldwin County unless otherwise provided for by the law or agreement between the county governing body and the Alabama Department of Forensic Sciences.

**Section 12. NO LIABILITY INCURRED FOR PROPER PERFORMANCE.** Neither the Baldwin County coroner nor any

member of his staff, the director of the Alabama Department of Forensic Sciences, the state medical examiners or any member of the Department's staff or agents, shall incur any civil or criminal liability for the proper and reasonable performance of their duties under this act.

**Section 13. REPORTS AS EVIDENCE.** The reports of death investigations conducted by the county coroner or by the Alabama Department of Forensic Sciences, or true copies thereof duly certified by the county coroner or the director of the department, respectively, are admissible in any court in the county with or without testimony by the county coroner or Department of Forensic Sciences' officials. However, any person preparing a report given in evidence under this act may be summoned as a witness in any civil or criminal case by either party to the case.

**Section 14.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 15.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 16.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:05 P.M.

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Act No. 90-705

H. 234—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Retired Senior Volunteer Program for the fiscal year ending September 30, 1991, and to require an operations plan prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Retired Senior Volunteer Program from the State General Fund the sum of Three hundred twenty eight thousand eight hundred twenty-five dollars (\$328,825) which shall be distributed in the following manner: \$38,380 to the Foster Grand-parent and Senior Companions Programs and \$290,445 to the Retired Senior Volunteer Programs.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of this report.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:10 P.M.

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Act No. 90-706

H. 218—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Commission on Aging for the Care Assurance System for the Aging and Homebound for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Commission on Aging for the Care Assurance System for the Aging and Homebound from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:11 P.M.

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Act No. 90-707

H. 219—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Civil Air Patrol-Alabama Wing for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Civil Air Patrol-Alabama Wing from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:12 P.M.

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Act No. 90-708

H. 242—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Coalition Against Domestic Violence for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Coalition Against Domestic Violence from the State General Fund the sum of Three hundred thousand dollars (\$300,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:13 P.M.

Act No. 90-709

H. 291—Rep. Harper

## AN ACT

To make a supplemental appropriation from the State General Fund to the Alabama Medicaid Agency in the amount of \$2,024,714 for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Legislative Findings and Declaration of Purpose.** Section 1902 (a)(13) of the Social Security Act provides that the states take into account, in a timely manner, all costs that nursing homes incur to provide care and services in conformity with all State and Federal laws. In fulfilling requirements of the Medicaid statutes, the State must assure the Secretary of Health and Human Services that nursing facility rates are reasonable and adequate. The State, therefore, recognizes that an increase in the Federal minimum wage will impact the Medicaid Program and the Medicaid rates paid to long term health care providers should be increased to meet increased costs incurred by providers of such health care services. In addition, the Alabama Legislature does hereby find that Medicaid reimbursable costs at hospitals and nursing homes in Alabama that provide teaching functions are higher than reimbursable costs at other hospitals and nursing homes in the State.

**Section 2. Appropriation.** In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the Alabama Medicaid Agency from the State General Fund the sum of seven hundred fifty thousand dollars (\$750,000) for the fiscal year ending September 30, 1990. Such appropriation is made to insure that long term care nursing facilities receiving payments from the Alabama Medicaid Agency will receive an increased rate due to the increase in the federal minimum wage. In addition, there is hereby appropriated to the Alabama Medicaid Agency the sum of one million two hundred seventy-four thousand seven hundred fourteen dollars (\$1,274,714) from the State General Fund for the fiscal year ending September 30, 1990. Such appropriation is made for reimbursable costs at hospitals and nursing homes in Alabama that provide teaching functions under the State Medicaid program.

**Section 3. Severability.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.



**Section 4.** Effective Date. The Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 3:00 P.M.

Act No. 90-710

H. 486—Reps. Hogan, Grouby, Blakeney,  
Carter, Newman, Black,  
Haynes, Spratt, Colvin,  
Headley, Frazier, Higginbotham,  
Freeman and Parker

#### AN ACT

To make a supplemental appropriation from the state general fund to the Alabama Commission on Aging for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1990, in addition to all appropriations heretofore or hereafter made, there is also hereby appropriated to the Alabama Commission on Aging for the Planning and Advocacy for the Elderly Program from the state general fund the sum of six hundred seventy-five thousand dollars (\$675,000). From said amount appropriated herein, at least three hundred seventy-five thousand dollars (\$375,000) shall be utilized in the Medicaid Waivered Services Element.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:14 P.M.

Act No. 90-711

H. 815—Rep. Harper

#### AN ACT

To provide for an appropriation to the Marine Resources Division of the Alabama Department of Conservation and Natural Resources from the State Employees Liability Insurance Fund for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1990, there is hereby appropriated from the State Employees Liability Insurance Fund to the Marine Resources Division of the Alabama Department of Conservation and Natural Resources the amount of Four Hundred Thousand Dollars (\$400,000). This appropriation is hereby made for oyster planting contracts with non-profit organizations comprised of licensed oyster harvesters.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of law which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:15 P.M.

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Act No. 90-712

H. 209—Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Camp ASCCA, in Jackson Gap, Alabama for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of three hundred forty-three thousand eight hundred and four dollars (\$343,804), out of the funds in the Alabama Special Educational Trust Fund, to Camp ASCCA in Jackson Gap, Alabama, to be used for the support and maintenance of said facility.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:16 P.M.

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Act No. 90-713

H. 244—Rep. Harper

**AN ACT**

To make an appropriation to the Commission on Physical Fitness for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated to the Commission on Physical Fitness for the fiscal year ending September 30, 1991 the sum of three hundred seventy thousand nine hundred fifty dollars (\$370,950) out of the funds in the Alabama Special Educational Trust Fund and there is also hereby appropriated the Commission's Federal and Local Funds.

Of the above appropriation to the Commission on Physical Fitness, \$90,000 shall be expended for the Alabama Sport Festival.

**SECTION 2.** The above appropriation is made for educational purposes which shall include but shall not be limited to maintaining liaison with the State Department of Education, boards of education and private and parochial schools; advising on such programs of physical fitness; promoting physical fitness education for the mentally retarded and physically handicapped and providing for physical educational facilities.

**SECTION 3.** The Commission on Physical Fitness is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1991.

**SECTION 4.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:17 P.M.

Act No. 90-714

H. 177—Reps. Carothers, Johnson (RG),  
Butler, White (L), Flowers,  
Hall, Haynes and Beasley

## AN ACT

To create in the State of Alabama a "Family Practice Rural Health Board" to further the availability of family physicians; to provide for the board's membership; and to establish the authority of the board; to make an appropriation from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Legislature of Alabama hereby finds and declares that physicians engaged in family practice are in critical short supply in Alabama, and further, that the distribution of such numbers that are available has created many areas of shortage, especially in the underserved rural areas of Alabama. The Legislature hereby declares that it regards the furtherance of a greater supply of family physicians to be of great importance and further declares the establishment of programs pursuant to this Act to be desirable, necessary, and an economical method of increasing the number of Family Physicians needed to provide medical services to the people of Alabama, especially in underserved rural areas.

**Section 2.** There is hereby created an eleven (11) member, "Family Practice Rural Health Board" with each member serving a six (6) year term unless otherwise specified. The board shall consist of the following membership:

a. two members representing the medically underserved rural areas to be appointed by the Governor.

b. one member from each of the seven U. S. Congressional Districts to be appointed by the Alabama Academy of Family Physicians.

c. one member to be appointed from the membership of the House of Representatives by the Speaker and whose term shall end with his legislative term at which time a replacement will be appointed.

d. one member to be appointed from the membership of the State Senate by the Lieutenant Governor and whose term shall end with his legislative term at which time a replacement will be appointed.

The board shall meet within 90 days following the effective date of this Act and elect from its membership, a Chairman and other officers deemed necessary by the board. The director or his designee,

of each of the Family Practice Residency Programs receiving funds through the provisions of this Act, shall serve as ex officio, non-voting member of the board. Members shall receive no compensation for their services, but may be paid such per diem and mileage as provided for state employees.

**Section 3.** The board may assist in determining and prioritizing the medically underserved areas where there exist unmet needs for Family Physicians.

**Section 4.** The board shall not allocate any funds pursuant to this Act to any Family Practice Residency Program unless it is accredited by the American Academy of Family Physicians and meets the standards and guidelines established by the Accreditation Council for Graduate Medical Education. Accreditation for the purpose of this Act includes provisional accreditation where necessary to initially establish a new residency program.

**Section 5.** The board shall allocate the funds appropriated through the Public Health Department for Family Practice Rural Health Programs. The health department shall distribute the funds as allocated by the board except for sufficient amounts necessary to cover the per diem, mileage and printing cost associated with the board's activities. The board shall make allocations from the available revenue for existing Family Practice Residency Programs or any like program which may be hereafter created, provided such a program meets the criteria specified in Section 4 of this Act. The board is further authorized to allocate funds and make grants for the recruitment of physicians with such specialties necessary to meet the requirements of this Act; to track students in physician residency specialty training programs; for the recruitment of physicians to locate in medically underserved areas; to fund health fairs for the recruitment of physicians or other medical personnel for underserved areas; to fund and provide for medical preceptorship programs; to fund and provide for out of state rotations for residency training; and to fund essential studies, assessments or matters within the authority of the board.

**Section 6.** The board shall assist in identifying any unmet needs relating to the medically underserved rural areas of the state and any available resources that could be applied toward those needs. The board shall submit an annual report to the Governor, Lieutenant Governor, Speaker of the House, Chairman of each of the Health Committees and the State Health Officer of the disbursement of all funds, accomplishments toward meeting the unmet needs in the rural areas and the goals for the next fiscal year.

**Section 7.** There is hereby appropriated to the Family Practice Rural Health Board from the Alabama Special Educational Trust

Fund the amount of \$950,000 for the fiscal year ending September 30, 1991.

**Section 8.** Nothing in this Act is intended or shall be construed as granting the board any governing or administrative authority over any programs administered by any University Medical School in this state or any other program established pursuant to state law.

**Section 9.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 10.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** This Act shall become effective immediately upon its passage and approved by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:18 P.M.

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Act No. 90-715

H. 214—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the All American Bowl and the Senior Bowl in Mobile and the Blue-Gray Game in Montgomery for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the All American Bowl from the State General Fund the sum of Ten thousand dollars (\$10,000).

In addition to the above appropriation there is hereby appropriated to each the Senior Bowl in Mobile, Alabama, and the Blue-Gray Game in Montgomery the sum of \$10,000 from the State General Fund, for the fiscal year ending September 30, 1991.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:19 P.M.

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Act No. 90-716

H. 224—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Fort Payne Depot for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Fort Payne Depot from the State General Fund the sum of Ten thousand dollars (\$10,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:20 P.M.

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Act No. 90-717

H. 225—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the George C. Wallace Industrial Air Park for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the George C. Wallace Industrial Air Park from the State General Fund the sum of One hundred thousand dollars (\$100,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:21 P.M.

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Act No. 90-718

H. 226—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Helen Keller Property Board for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Helen Keller Property Board from the State General Fund the sum of Fifteen thousand dollars (\$15,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:22 P.M.

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Act No. 90-719

H. 227—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Lee County Historical Society for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Lee County Historical Society from the State General Fund the sum of Five thousand dollars (\$5,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:23 P.M.

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Act No. 90-720

H. 228—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the Lighthouse Counseling Center for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Lighthouse Counseling Center from the State General Fund the sum of Six thousand seven hundred eighty-three dollars (\$6,783).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:24 P.M.

Act No. 90-721

H. 229—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the Mallard Fox Creek Port and Industrial Park for capital outlay for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated for capital outlay to the Mallard Fox Creek Port Industrial Park from the State General Fund the sum of One hundred fifty thousand dollars (\$150,000).

Of the above appropriation, \$25,000 shall be used for development of Port Steven in Decatur, Alabama.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:25 P.M.

Act No. 90-722

H. 230—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the Alabama Mining Museum for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Alabama Mining Museum from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during

fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:26 P.M.

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Act No. 90-723

H. 231—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Mountain Lakes Tourist Association for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Mountain Lakes Tourist Association from the State General Fund the sum of Twenty-five thousand dollars (\$25,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:27 P.M.

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Act No. 90-724

H. 221—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Coosa-Alabama River Improvement Association for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Coosa-Alabama River Improvement Association from the State General Fund the sum of Seventy-five thousand dollars (\$75,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:28 P.M.

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Act No. 90-725

H. 222—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Dothan Landmarks Foundation for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Dothan Landmarks Foundation from the State General Fund the sum of forty thousand three hundred thirteen dollars (\$40,313). Of such amount a total of \$25,000 shall be used for the depot restoration program.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:29 P.M.

Act No. 90-726

H. 232—Rep. Harper

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AN ACT

To make an appropriation from the State General Fund to the Alabama Council for Parenting and Protecting Children, Inc. for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Alabama Council for Parenting and Protecting Children, Inc. from the State General Fund the sum of Seventy-five thousand dollars (\$75,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:30 P.M.

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Act No. 90-727

H.J.R. 610—Rep. Hooper

## HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. JOHN WYMAN ON  
THE BIRTHS OF THEIR SON AND DAUGHTER.

WHEREAS, it is with great pleasure that the Alabama Legislature congratulates John and Louise Wyman of Birmingham on the births of Daniel Thomas Wyman and Samantha Louise Wyman on April 13, 1990; and

WHEREAS, a beautiful and petite baby girl, little Samantha Louise was 17 and one-half inches long, weighed four pounds-12 ounces, and arrived at 1:36 p.m. just one minute ahead of baby brother, Daniel Thomas Wyman, who was 19 inches long and weighed five pounds-three ounces; and

WHEREAS, we are indeed happy for Louise and John and sincerely wish that the happiness they now enjoy increases with

every passing year as the twins continue to “double their pleasure” throughout life; and

WHEREAS, we also congratulate proud grandparents, Tom and Maxine Coker of Montgomery and Doug and Barbara Wyman of Chicago, who have been twice blessed, as have Louise and John, with the arrival of little Daniel Thomas and Samantha Louise; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Mr. and Mrs. John Wyman of Birmingham on the births of Daniel Thomas and Samantha Louise on April 13, 1990, and do further direct that copies of this resolution be presented to their parents and grandparents, and that a copy also be provided for the twins that they may later know of the happiness we shared with their family on the occasion of their births.

Approved May 3, 1990

Time: 5:31 P.M.

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Act No. 90-728

H.J.R. 612—Rep. Marietta-Lyons

### HOUSE JOINT RESOLUTION

COMMENDING TINA MORNING ROUSH NELSON FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT AND SERVICE.

WHEREAS, Tina Morning Roush Nelson of Mobile, a native of Laurel, Mississippi, is a graduate of Mobile County's Theodore High School, and of Livingston State College where she earned the B.S. degree; she also holds the Master of Arts degree in elementary education and certification in school administration from the University of South Alabama; and

WHEREAS, a truly dedicated and outstanding educator, Mrs. Nelson has served the Mobile County schools since 1965, teaching until 1971 at Nan Gray Davis Elementary School where she also served as faculty advisor, and serving as principal and teacher at Dauphin Island Elementary School from 1971 to 1975; and

WHEREAS, Mrs. Nelson currently serves, and since 1975, as principal of South Brookley Elementary School where she is greatly loved and respected by all the students, teachers, staff and community; and

WHEREAS, in addition, however, to the weighty responsibilities of her administrative position, Mrs. Nelson also provides professional leadership and service through affiliation with such organizations as the National Association of Elementary School Principals, the Alabama and Mobile County Councils for School Administration and Supervision, Alabama Association of Elementary School Administrators and the Mobile County Council Parent Teacher Association, among others; and

WHEREAS, Mrs. Nelson, who was named District One Distinguished Principal, 1989, is again being honored, and her many achievements recognized, on "Tina Nelson Appreciation Day," April 27, 1990; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby join with students, faculty, staff and the Mobile community, in commending Tina Morning Roush Nelson for distinguished service to the youth and schools in the Mobile County System, and do further direct that she receive a copy of this resolution of honor and esteem to be presented on "Tina Nelson Appreciation Day," April 27, 1990.

Approved May 3, 1990

Time: 5:32 P.M.

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Act No. 90-729

H.J.R. 634—Rep. Carothers

### HOUSE JOINT RESOLUTION

RECOGNIZING CARL D. LATHEM FOR 40 YEARS OF OUTSTANDING LEADERSHIP AND CONTRIBUTIONS TO FEDERAL-STATE INSPECTION SERVICE.

WHEREAS, Carl D. Lathem began his service with the Alabama Department of Agriculture and Industries, Federal-State Inspection Service, in September 1950, in the Dothan/Evergreen area; and

WHEREAS, Carl D. Lathem served the next six years in the states of Alabama, Virginia, North Carolina, New York, Florida, Michigan and Pennsylvania becoming permanently assigned to the Alabama Department of Agriculture and Industries in 1957; and

WHEREAS, Carl D. Lathem became Supervisor in charge of Peanut Inspection for the State of Alabama on September 1, 1975; and

WHEREAS, Carl D. Lathem's contributions have influenced changes and improvements in inspection procedures and equipment in the Federal-State Inspection Service; and

WHEREAS, Carl D. Lathem's dedicated leadership, wise counsel and genuine spirit of concern will be greatly missed; and

WHEREAS, Carl D. Lathem has chosen to retire from the Alabama Department of Agriculture and Industries, Federal-State Inspection Service on August 31, 1990; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we hereby recognize Carl D. Lathem's many accomplishments and congratulate him on his retirement.

BE IT FURTHER RESOLVED, That Carl D. Lathem receive a copy of this resolution.

Approved May 3, 1990

Time: 5:33 P.M.

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Act No. 90-730

H. 223—Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Elyton Recovery Center for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Elyton Recovery Center from the State General Fund the sum of seventy-five thousand dollars (\$75,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:34 P.M.

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Act No. 90-731

H. 722—Rep. Knight

AN ACT

To provide for an appropriation from the Alabama Special Educational Trust Fund to several county boards of education for the fiscal year ending September 30,



1990 and to reduce the conditional appropriation for Burned-Out Schools as provided for in Act 351, 1989 Regular Session.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1990, there is hereby appropriated the following amounts to the following boards of education:

1. Autauga County Board of Education—  
for Burned-out school repair at the Autauga  
County Alternative School ..... 75,000
2. Bibb County Board of Education—  
for repair of tornado damage ..... 50,000
3. Jefferson County Board of Education—  
for repair of tornado damage ..... 90,000
4. Lowndes County Board of Education—  
for building repair and maintenance ..... 75,000
5. Shelby County Board of Education—  
for repair of tornado damage ..... 300,000
6. Wilcox County Board of Education—  
for building repair and maintenance ..... 75,000
7. Talladega County Board of Education—  
for building repair and maintenance ..... 75,000
8. Tuscaloosa City Schools—  
for building repair and maintenance ..... 35,000
9. Tuscaloosa County Board of Education—  
for building repair and maintenance ..... 65,000
10. Hale County Board of Education—  
for building repair and maintenance ..... 35,000
11. Pike County Board of Education—  
for building repair and maintenance ..... 65,000
12. Pickens County Board of Education—  
for building repair and maintenance ..... 50,000
13. Mobile County Board of Education—  
for building repair and maintenance ..... 65,000
14. Ozark City Board of Education—  
for building repair and maintenance ..... 30,000
15. Attalla Board of Education  
for Building repairs ..... 30,000

16. Montgomery County Board of Education— Restroom Facilities for Head School .....	82,150
17. Clay County Board of Education for Building Repair .....	35,000
18. Tallassee City Board of Education for Building Repair .....	35,000
19. Jackson County Board of Education for Building Repair .....	35,000
20. Birmingham City Board of Education for the Tuxedo Elementary School .....	100,000

**Section 2.** The conditional appropriation from the Alabama Special Educational Trust Fund for Burned-Out Schools as provided for in Section 3A7(22) of Act 351 passed in the 1989 Regular Session is hereby reduced by \$1,402,150 for the fiscal year ending September 30, 1990.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:35 P.M.

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Act No. 90-732

H. 290—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the Child Advocacy Centers for the fiscal year ending September 30, 1991, and to require operations plans and audited financial statements prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Child Advocacy Centers from the State General Fund the sum of Four hundred fifty thousand dollars

(\$450,000). Said appropriation is to be used for the support and maintenance of said centers as follows:

1. Prescott House—Birmingham ..... \$50,000
2. National Children's Advocacy Center,  
Inc.-Huntsville ..... \$50,000
3. The Child Advocacy Center, Inc.—Mobile ..... \$50,000
4. Montgomery Child Protection and  
Advocacy Center, Inc. .... \$50,000
5. Tuscaloosa Children's Center, Inc. .... \$50,000
6. Bessemer Cut-off Advocacy Center, Inc. .... \$50,000
7. Blount County Children's Advocacy Center ..... \$50,000
8. Care House, Baldwin County ..... \$50,000
9. Gadsden-Etowah County Children's  
Advocacy Center ..... \$50,000

In addition to the above appropriation, there is hereby conditionally appropriated the sum of \$50,000 to the Houston-Henry County Children's Advocacy Center, said conditional appropriation to be dependent upon the availability of funds in the State General Fund and the approval of the Governor.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, operations plans for fiscal year 1990-91 and audited financial statements for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:36 P.M.

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Act No. 90-733

H. 216—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the American Young Woman of the Year Program and the Alabama Young Woman of the Year Program, Inc. for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the American Young Woman of the Year Program from the State General Fund the sum of One hundred thousand dollars (\$100,000). For the fiscal year ending September 30, 1991, there is hereby appropriated to the Alabama Young Woman of the Year Program, Inc. the sum of twenty five thousand dollars (\$25,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:37 P.M.

Act No. 90-734

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H. 505—Reps. Harper, Clark (J), Fuller, Johnson (RW), Campbell, Carter, Butler, Box, Starkey, Ford, Zoghby, Marks, Williams, McKee, Burke, Breedlove, Moon, Kvalheim, Knight, White (G), Penry, Bugg, Colvin, Hill, Payne, Buskey (JE), Newman, Curry, Brooks, Holley, Biddle, White (L), Richardson, Blakeney, Newton (C), Buskey (JL), White (F), Warren, Thomas, Higginbotham, Gaston and Seibels

### AN ACT

To establish the Alabama Commission on Tax and Fiscal Policy Reform and to provide funds therefor; to provide for the severability of the provisions hereof; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.**

(a) There is hereby created a special commission to be known as the "Alabama Commission on Tax and Fiscal Policy Reform" (hereinafter called the "Commission"), to have the powers and duties set forth below. Except as provided in Subsection (b) below, this Commission shall consist of 15 members to be selected as follows:

1. Four members shall be appointed by the Governor.
2. Three members shall be appointed by the Speaker of the Alabama House of Representatives.
3. Three members shall be appointed by the Lieutenant Governor.
4. One member shall be appointed by the Alabama State Bar Association, which person shall be a member of the Tax Section of that Association.
5. One member shall be appointed by the Alabama Society of Certified Public Accountants, which person shall be a member of that Society.
6. One member shall be appointed by the Public Affairs Research Council of Alabama.
7. One member shall be appointed by the University of Alabama Center for Business and Economic Research. Such appointee (and any successor appointee) shall serve in an advisory capacity only and shall have no voting rights.
8. One member shall be appointed by the Auburn University Center for Government Services. Such appointee (and any successor appointee) shall serve in an advisory capacity only and shall have no voting rights.

The Governor, the Speaker of the House, and the Lieutenant Governor shall ensure that at least one of their respective appointments shall be Black and selected from a list of citizens of this state recommended by the Alabama Legislative Black Caucus.

(b) The aforementioned appointments shall be made by the individual or entity entitled to make such appointment, by designating such appointee to the Commissioner of the Alabama Department of Revenue (hereinafter called the "Commissioner of Revenue") on or before May 18, 1990. A copy of all appointments shall be filed with the Clerk of the House of Representatives. If an individual or entity entitled to make one or more appointments fails to do so within the time prescribed, that individual or entity shall forfeit the right to

appoint such member(s) and thereafter the Commission shall continue in existence but with fewer members. Each appointee shall file written notice of his acceptance with the Commissioner of Revenue with a copy to the Clerk of the House of Representatives. If a member of the Commission dies, resigns or otherwise is unable to serve at any time, the individual or entity that originally appointed such member shall be entitled to appoint a successor, which appointment shall be made by a writing designating such successor appointee to the Chairman of the Commission, with a copy to the Clerk of the House of Representatives. Such appointment shall be effective upon receipt by the Chairman of the Commission of the written acceptance of the successor appointee. A copy of the written acceptance of the substitute member shall be filed by such member with the Clerk of the House of Representatives. A member of the Commission shall not be subject to removal.

(c) The Commission shall hold its initial organizational meeting on such date and at such place, after one month following the date of enactment of this Act and on or before June 15, 1990, as shall be designated by the Commissioner of Revenue through written notice to each member of the Commission who has then been designated.

(d) The Commission shall be empowered to select a chairman, vice chairman, and such other officers as it shall deem appropriate from time to time from its membership and shall appoint a secretary who may but need not be a member of the Commission. The Commission shall adopt such rules, regulations and procedures for the conduct of its hearings, its committee meetings and other business of the Commission, as the Commission shall best determine. In adopting reports, making recommendations, determining the holding of public hearings, authorizing the use or disbursement of funds, and in all other matters requiring Commission approval, the Commission shall act by a majority vote of its members present at a meeting thereof at which a quorum is present or by the written consent of a majority of its members. For the purposes of this Section, a quorum shall consist of a majority of the members of the Commission then serving.

(e) The Commission is herein empowered and directed to study and evaluate the following policies and programs of the State of Alabama:

- (1) The entire tax structure, including all tax sources;
- (2) Earmarking of tax revenues;
- (3) All expenditures and spending programs, including the appropriations process; and
- (4) Debt and debt financing.

The Commission is further directed to evaluate the need, if any, for the reorganization of state government; the merger or elimination of agencies, departments, constitutional offices, and political jurisdictions; and the potential cost savings or efficiencies resulting from any such reorganization.

The Commission as it deems necessary shall review previous tax and fiscal studies with respect to the State of Alabama, and shall conduct such research as it deems necessary to compare and evaluate Alabama's tax, spending, and organizational structure with that of other states. The Commission shall make such recommendations as it deems appropriate for a tax, spending, and organizational policy structure for the State of Alabama that shall be equitable, shall provide adequate funding for necessary functions of state government, shall impose a minimum burden on taxpayers, and shall be designed to make the State of Alabama competitive in education and other governmental services in relation to other states in the region consisting of the States of Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. The Commission shall produce written comparisons, analyses, recommendations and proposed legislation. Such comparisons, analyses, recommendations, and proposed legislation shall be officially delivered by the chairman of said Commission to the Governor, the Speaker of the House of Representatives, the Lieutenant Governor, and each member of the House of Representatives and Senate, as well as made public by dissemination to the news media, at a joint session of the Alabama Legislature during the organizational session of the 1991 Legislature. Prior to the official report being made public in the aforementioned manner, no preliminary or partial reports shall be released by the Commission. The proposed legislation shall be submitted in the form of a bill or bills suitable for introduction in the Alabama Legislature.

(f) The Commission may create and appoint such special committees as it may deem necessary or appropriate to perform the duties required to be performed by it under the provisions of this Act. The chairman of each such special committee created and appointed by the Commission shall be selected by the Commission. Each such special committee shall be composed of members of the Commission and shall be subject to the jurisdiction and control of, and shall report directly to, the Commission.

(g) Both the Commission and any special committee created and appointed hereunder shall be authorized to conduct public hearings at such times and at such places as the Commission or such committee shall determine to be necessary or appropriate. Transcripts of such hearings shall be maintained and copies available to the public upon payment of such reasonable fees as the Commission may

prescribe. Public hearings of the Commission shall be attended by not less than five of the members of the Commission. Public hearings of any special committee shall be attended by not less than two of the members of the committee.

(h) The legislative, executive, and judicial branches of government, and all agencies and departments thereof, shall provide the Commission, without charge, with such technical assistance, information, services, facilities, personnel, and such other support as the Commission shall request.

(i) Notwithstanding any of the laws of the State of Alabama to the contrary, the Department of Revenue is hereby authorized to furnish to the Commission such information and data as to enable the Commission to perform its tasks hereunder; provided, however, that the Commission shall not disclose any information with respect to any specific taxpayer that the Department of Revenue would otherwise be precluded from disclosing.

(j) The Commission shall continue in existence until the last day of the 1991 regular session of the Alabama Legislature to offer such advice and services as may be appropriate for implementation of the legislation recommended by the Commission.

(k) The Legislature does hereby appropriate from the General Fund of this State the sum of Two Hundred Thousand Dollars (\$200,000) to be used by the Commission in preparing research and employing consultants, and for legal fees, accounting fees and such other expenses as may be deemed necessary or appropriate by the Commission.

(l) Members of the Commission shall serve without compensation but shall be entitled to receive reimbursement for direct out-of-pocket expenses, which reimbursement shall be paid from the appropriation herein provided to the Commission.

(m) The Clerk of the House of Representatives shall cause all appointments to the Commission and acceptances of such appointments to be published with the Acts of the Legislature.

**Section 2.** All laws or parts of laws in direct conflict with this Act are hereby repealed.

**Section 3.** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this Act so adjudged to be invalid or unconstitutional.



**Section 4.** This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming law.

Approved May 3, 1990

Time: 5:40 P.M.

Act No. 90-735

H. 182—Rep. Harper

### AN ACT

To make annual appropriations for the support, maintenance and development of public education in Alabama and for debt service and capital improvements for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the support of public education in Alabama for the fiscal year ending September 30, 1991, and for the public debt, to be paid out of funds specified in subsection (a) of Section 2 of this Act, the amounts specified in Sections 3 to 4 of this Act. For the purpose specified in subsection (b) of Section 2 of this Act, amounts are shown by programmatic area and the total for all programs is shown so as to include estimated sources of funds other than the appropriation made in subsection (a) of Section 2 of this Act. For the purpose of this Act, "ASETF" shall mean the Alabama Special Educational Trust Fund and "Federal and Local Funds" shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

**SECTION 2.** (a) The appropriations provided for in this Act shall be paid from funds in the State Treasury to the credit of the Alabama Special Educational Trust Fund and Alabama Special Educational Trust Fund Surplus, Alabama Peace Officers' Standards and Training Fund, and Public School Fund and are hereby made for the support of public education in Alabama for the fiscal year ending September 30, 1991, and the appropriations herein made shall be subject to the provisions, terms, conditions and limitations of the Budget and Financial Control Act (Code of Alabama 1975, as amended, Sections 41-4-80 through 41-4-96), the provisions of The Budget Management Act of 1976 (Code of Alabama 1975, as amended, Sections 41-19-1 through 41-19-12), and shall be in the amounts hereinafter specified.

(b) Amounts shown herein under the columns "Trust Funds" and "Appropriation Total" are as set forth for the purpose of establishing amounts estimated to be available by programmatic area

from sources other than from appropriations made in subsection (a) of this Section 2, in order, upon consideration of such other funds so estimated to be available, to promote the accountability for an efficient use of funds available and are hereby appropriated by the Legislature. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

	Fund Sources Included In Appropriation Total		
	ASETF	Trust Funds	Appropriation Total
<b>SECTION 3.</b>			
<b>A. STATE AGENCIES:</b>			
<b>1. AMERICAN LEGION AND AUXILIARY SCHOLAR- SHIPS:</b>			
(a) Support of Other Educational Activities Program .....			112,500
<b>SOURCE OF FUNDS:</b>			
(1) ASETF .....	112,500		
Total American Legion and Aux- iliary Scholarships .....	112,500		112,500
To be expended under the provi- sions of Code of Alabama 1975, as amended, Sections 16-31-1 through 16-31-4.			
<b>2. ARTS, STATE COUNCIL ON THE:</b>			
(a) Fine Arts Program .....			2,745,433
Of the above appropriation, \$215,000 shall be allocated to the Folk Life Center.			
<b>SOURCE OF FUNDS:</b>			
(1) ASETF .....	1,666,433		
(2) Federal and Local Funds .....		1,079,000	

Total State Council on the Arts ...	1,666,433	1,079,000	2,745,433
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### 3. DEBT SERVICE:

(a) Debt Service Program .....			649,708
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For interest on endowments as follows:

For interest on University of  
Montevallo (Alabama College)  
Endowment, Estimated .34,964

For interest on Auburn University  
Endowment .....20,280

For interest on University of Ala-  
bama Endowment .....61,000

For interest on Grove Hill  
Endowment .....600

For interest on Public School Fund  
Endowment:

Interest on 16th Section Lands,  
Estimated .....410,000

Interest on School Indemnity  
Lands, Estimated .....90,000

Interest on Valueless 16th Section  
Lands .....5,825

Interest on Surplus  
Revenue .....26,764

Interest on James Wallace  
Fund .....275

Total Interest on Public School  
Fund Endowment .....532,864

### SOURCE OF FUNDS:

(1) ASETF .....	649,708	
Total Debt Service .....	649,708	649,708

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### 4. DENTAL SCHOLARSHIP AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program .....		176,000
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### SOURCE OF FUNDS:

(1) ASETF .....	176,000	
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Total Board of Dental Scholarship Awards .....	176,000	176,000
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To be expended under the provisions of Code of Alabama 1975, as amended, Sections 16-47-76 through 16-47-81.

## 5. EDUCATION, DEPARTMENT OF:

(a) Administrative Services Program .....	14,649,786
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The proposed spending plan for the ASETF monies included in the above program is as follows:

Compact for Education .....48,200

Operations and Maintenance of Department .....5,442,754

Leadership and Management .....500,000

Of the above appropriation for Leadership and Management, an amount up to \$200,000 shall be expended for Project LEAD.

Electronic Network .....500,000

### SOURCE OF FUNDS:

(1) ASETF .....	6,490,954	
(2) Federal and Local Funds .....	8,158,832	

Total Administrative Services Program .....	6,490,954	8,158,832	14,649,786
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(b) Adult Basic Education Program .....	6,197,189
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The ASETF monies included in the above program are to be distributed by the Department of Education as follows:

Adult Basic Education ...3,107,567

Of the above appropriation, the sum of \$207,769 shall be used to fund FICA for ABE programs including the FICA of those programs at postsecondary institutions.

## SOURCE OF FUNDS:

(1) ASETF .....	3,107,567		
(2) Federal and Local Funds .....		3,089,622	
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Total Adult Basic Education Program .....	3,107,567	3,089,622	6,197,189
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(c) Community Education Program .....			960,297

Of the above appropriation to the Department of Education for Community Education, \$85,000 shall be allocated to the Birmingham Board of Education, Department of Community Education.

## SOURCE OF FUNDS:

(1) ASETF .....	766,570		
(2) Federal and Local Funds .....		193,727	
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Total Community Education Program .....	766,570	193,727	960,297
<hr/>			
(d) Financial Assistance Program .....			280,498,375

The proposed spending plan for the ASETF monies included in the above program is as follows:

Elementary Teachers Scholarships .....23,760

To be paid in accordance with Code of Alabama 1975, as amended, Section 16-23-17.

Teacher In-Service Centers .....2,094,009

The State Board of Education shall administer the In-Service Educational Centers and shall monitor said centers for compliance with established accountability standards. Of the above appropriation, \$171,009 may be used by the State Board of Education for the administration and monitoring of said centers. The above

appropriation shall be distributed in the following manner:

(aa) The sum of \$85,000 shall be distributed to each of the following in-service centers:

- (1) Alabama A&M University
- (2) Alabama State University
- (3) Athens State College
- (4) Auburn University
- (5) Jacksonville State University
- (6) Troy State University
- (7) University of Alabama
- (8) University of Alabama at Birmingham
- (9) University of Montevallo
- (10) University of North Alabama
- (11) University of South Alabama

(bb) The remainder of the above appropriation shall be allotted to each in-service center based on the number of state-funded teacher units earned in each region as reported by the State Department of Education, Revised Calculations for 1989-90, and the number of teachers employed as reported on the 1989-90 LEA Personnel Report for Additional Allocation for Special Education and State Vocational Education Teachers. Each in-service center shall be affiliated with the same region each center served on October 1, 1987. In addition, the appropriation made in (aa) and (bb) above shall be distributed to the named in-service centers within five days of each quarterly allotment to the State Department of Education.

#### SOURCE OF FUNDS:

(1) ASETF .....	2,117,769
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(2) Federal and Local Funds .....	278,380,606		
Total Financial Assistance			
Program .....	2,117,769	278,380,606	280,498,375
(e) Alabama Young Farmers Education Program .....			50,000
SOURCE OF FUNDS:			
(1) ASETF .....	50,000		
Total Alabama Young Farmers Education Program .....	50,000		50,000
(f) Instructional Technical Assistance Program .....			10,222,348
The proposed spending plan for the ASETF monies included in the above program is as follows:			
Basic Skills Program .....	949,215		
Early Childhood Education Administration .....	97,998		
Instructional Technical Assistance .....	1,283,181		
Special Education Administration .....	400,902		
Vocational Education Administration .....	997,180		
The above appropriation for Vocational Education Administration shall include \$77,000 for the Wiregrass Education Enhancement Committee.			
National Geographic Grant-Matching Funds .....	50,000		
SOURCE OF FUNDS:			
(1) ASETF .....	3,778,476		
(2) Federal and Local Funds .....		6,443,872	
Total Instructional Technical Assistance Program .....	3,778,476	6,443,872	10,222,348
(g) Local Agency Support Program .....			20,662,496
The proposed spending plan for the ASETF monies included in the above program is as follows:			
Advanced Placement .....	468,891		

Driver Education, School Bus  
Driver Training and Vehicle  
Safety Inspection .....596,716  
Free Textbooks ..... 14,065,118  
Guidance and  
Counseling .....193,136  
Operations and  
Maintenance .....160,791  
School Attendance .....202,566  
School Facilities and Architectural  
Services .....198,375  
Testing and Student  
Assessment .....2,409,464  
After School Homework Assis-  
tance Program .....60,000  
Emergency Food Assistance  
Program .....65,337

#### SOURCE OF FUNDS:

(1) ASETF .....	18,420,394		
(2) Federal and Local Funds .....		2,242,102	
Total Local Agency Support Program .....	18,420,394	2,242,102	20,662,496
(h) Regulation Program .....			1,868,702

The proposed spending plan for the  
ASETF monies included in the  
above program is as follows:

Teacher Certification and  
Accreditation .....693,274  
Undergraduate/Graduate Program  
Approval .....397,618

#### SOURCE OF FUNDS:

(1) ASETF .....	1,090,892		
(2) Federal and Local Funds .....		777,810	
Total Regulation Program .....	1,090,892	777,810	1,868,702
(i) Support of Other Educational Activities Program .....			8,839

The proposed spending plan for the  
ASETF monies included in the  
above program is as follows:

Education of Dependents of Blind  
Parents .....8,839



## SOURCE OF FUNDS:

(1) ASETF .....	8,839	
Total Support of Other Educational Activities Program .....	8,839	8,839

For reimbursement of every state institution of higher learning, college, university, or technical college or junior college in which benefits are given to dependents of blind parents under the provisions of Code of Alabama 1975, as amended, Sections 16-33-1 through 16-33-12.

(j) Alabama Educational Enrichment Resource Agency, Inc. ....		55,000
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## SOURCE OF FUNDS:

(1) ASETF .....	55,000	
Total Alabama Educational Enrichment Resource Agency, Inc. ....	55,000	55,000

(k) Multi-System Evaluation Center .....		100,000
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## SOURCE OF FUNDS:

(1) ASETF .....	100,000	
Total Multi-System Evaluation Center .....	100,000	100,000

(l) Alabama Center for Law and Civic Education .....		50,000
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## SOURCE OF FUNDS:

(1) ASETF .....	50,000	
Total Alabama Center for Law and Civic Education .....	50,000	50,000

(m) Support of State Universities Program .....		50,000
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## SOURCE OF FUNDS:

(1) Federal and Local Funds .....	50,000	
Total Support of State Universities Program .....	50,000	50,000

(n) Education Specialist for Litter Education .....		50,000
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## SOURCE OF FUNDS:

(1) ASETF .....	50,000	
Total Education Specialist For Litter Education .....	50,000	50,000
(o) Alabama Indian Resource Center .....		200,000

## SOURCE OF FUNDS:

(1) ASETF .....	200,000	
Total Alabama Indian Resource Center .....	200,000	200,000

TOTAL DEPARTMENT OF  
EDUCATION:

## SOURCE OF FUNDS:

(1) ASETF .....	36,286,461		
(2) Federal and Local Funds .....		299,336,571	
GRAND TOTAL DEPART- MENT OF EDUCATION .....	36,286,461	299,336,571	335,623,032

G. EDUCATION, STATE  
BOARD OF-MINIMUM PRO-  
GRAM AND PUBLIC  
SCHOOL FUND:

(a) Financial Assistance Program .....	742,875,011
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## SOURCE OF FUNDS:

(1) ASETF .....	673,198,526		
(2) Public School Fund .....		65,000,000	
(3) Local Funds .....		4,676,485	
Total Minimum Program, Public School Fund and Local Funds ..	673,198,526	69,676,485	742,875,011

The above appropriation shall be paid in accordance with Code of Alabama 1975, as amended, Sections 16-13-50 through 16-13-59, and all other legislation pertaining thereto. For the Public School Fund all funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars (\$100) of

taxable property in this State for the support and maintenance of the public schools and from other funds mentioned and enumerated in Sections 257, 258, and 259 of the Constitution of Alabama 1901 and the amount appropriated from all other funds as is now provided by law, however, not more than four percent of the Public School Funds appropriated above shall be used or expended otherwise than for the payment of teachers employed in such schools. If the Public School Fund receives more revenue than appropriated for the fiscal year ending September 30, 1991, the excess in revenue shall be carried over as a beginning balance for the fiscal year beginning October 1, 1991.

The appropriation hereinabove set out for the fiscal year 1990-91 is based on 23,657.34 teacher units. It is provided in the event that there are more than 23,657.34 earned teacher units for the fiscal year 1990-91, then such amounts necessary to pay for these excess teacher units are hereby appropriated. It is further provided that in the event that there be less earned teacher units than those set out above, then the amount that would have been necessary to pay for these earned teacher units shall not be allotted or paid. It is further provided that in the event that there be less than \$65,000,000 available from the Public School Fund for the fiscal year 1990-91, then such amount necessary to pay any such shortfall in the Public School Fund monies is hereby appropriated from the ASETF.

In allocating the funds in subsection (a) the State Board of Education shall allot as follows:

For "Board of Adjustment" awards in accordance with the Minimum Program statutes and regulations an amount not to exceed \$300,000.

For "Salaries" the total shall not exceed the sum of \$571,944,674. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$26,485	3,040.90	\$ 80,538,236
I	24,798	14,429.96	357,834,148
II	21,591	6,186.48	133,572,290
III	18,179	0.00	0
IV	15,787	0.00	0
		23,657.34	\$ 571,944,674

For "Principal Supplement" an amount not to exceed \$100 for each earned teacher unit but the total shall not exceed the sum of \$2,365,734.

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$107,602,335. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$1,383,955.

The above appropriation contained in subsection (a) shall include an allotment for transportation in accordance with the formula adopted by the State Board of Education for the distribution of the funds to be used for transportation purposes but the total shall not exceed the sum of \$59,278,313. No funds provided herein shall be used for the payment of any personnel salaries not under the direct control, employment, and supervision of local boards of education.

## 7. EDUCATION, STATE BOARD OF LOCAL BOARDS:

(a) Financial Assistance  
Program ..... 697,359,741

### SOURCE OF FUNDS:

(1) ASETF ..... 697,359,741

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Total State Board of Education-  
Local Boards ..... 697,359,741                      697,359,741

To be distributed by the State  
Board of Education for:

(1) Teachers' Sick  
Leave ..... 4,925,822

Of the appropriation hereinabove  
made for Teachers' Sick Leave,  
the rate of not more than \$20.50  
per day is hereby appropriated.

It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' sick leave for the 1989-90 fiscal year be continued at that rate through the 1990-91 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' sick leave within a system.

- (2) Support Personnel Sick  
Leave .....2,092,003

Of the appropriation hereinabove made for Support Personnel Sick Leave, in accordance with Code of Alabama 1975, as amended, Section 16-1-18, the rate of not more than \$17 per day is hereby appropriated.

- (3) Teachers' Personal  
Leave .....1,870,133

The appropriation hereinabove made for Teachers' Personal Leave provides for two (2) days personal leave at the rate of not more than \$20.50 per day per teacher unit for each teacher employed (except for ECIA Chapter 1 and 2 teachers). It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' personal leave for the 1989-90 fiscal year be continued at that rate through the 1990-91 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' personal leave within a system.

- (4) Support Personnel Personal  
Leave .....457,895

The appropriation hereinabove made for Support Personnel

Personal Leave, in accordance with the provisions of Code of Alabama 1975, as amended, Section 16-8-26.1, provides for two (2) days personal leave at the rate of not more than \$17 per day.

(5) Classroom Instructional

Supplies ..... 22,736,160

Of the appropriation hereinabove made for Classroom Instructional Supplies there is hereby appropriated an amount not to exceed five hundred forty dollars (\$540) per teacher unit for grades K-12 for all teachers employed (except ECIA Chapter 1 and 2 teachers). Notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-40, the above appropriation of \$22,736,160 shall be expended solely for the purchase of instructional supplies to be used in the classrooms within each public school system. The adoption of a budget for the expenditure of this appropriation shall be by secret ballot. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in this section have been expended only for instructional supplies or instructional equipment for classrooms as provided and required in Section 16-13-13, Code of Alabama 1975, as amended. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for collective purchases for instructional purposes. The affidavit of expenditures shall be subject to

audit by the Examiners of Public Accounts. Any person expending funds not in compliance with this appropriation or Section 16-13-13, Code of Alabama 1975, as amended, or falsifying certification of expenditures, shall be guilty of a Class A misdemeanor. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund. In the event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for instructional supplies notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-144. Any law, rule or regulation to the contrary notwithstanding, each local board of education may purchase classroom school supplies in bulk pursuant to the competitive bid law, or upon resolution passed at a meeting called for the purpose and with notice, any board may allocate funds to individual schools or to teachers to purchase such classroom supplies by the voucher system and proper accounting safeguards. Such method shall be determined prior to the beginning of the first term of the school year, by each local school board. Restrictions shall not be devised (or imposed) to prohibit the ordering of Classroom Instructional Supplies beyond December 1st to the full extent of the appropriation.

(6) Kindergarten Instructional  
Supplies .....1,139,565

The above appropriation of \$1,139,565 shall be expended solely for the purchase of kindergarten instructional supplies to be used in the classrooms within each public school system. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in this section have been expended only for kindergarten instructional supplies or instructional equipment for classrooms. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for collective purchases for instructional purposes. This appropriation shall be in addition to the funds provided herein for "Classroom Instructional Supplies." However, this appropriation shall be subject to the same rules and regulations as are Classroom Instructional Supplies and shall also be subject to Section 16-13-13, Code of Alabama 1975. Each school shall have a specific policy on the development of the budget for Kindergarten Instruction Supplies consistent with state law, and such policy shall contain a secret ballot provision for the teachers in adopting said budget. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any person expending funds not in compliance with this appropriation or falsifying certification of expenditures shall be guilty of a Class A



misdemeanor. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund. In the event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for kindergarten instructional supplies. Restrictions shall not be devised (or imposed) to prohibit the ordering of Kindergarten Instructional Supplies beyond December 1st to the full extent of the appropriation.

(7) Maintenance .....9,398,059

To be distributed to all local boards of education based on a formula to be determined by the State Board of Education.

(8) Continuation of Funds Previously Granted for Special Education ..... 28,119,571

(9) Special Schools for Special Education .....5,932,269

To be distributed by the State Board of Education as follows:  
 \$450,000 shall be allocated to the Tuscaloosa Regional Handicapped School a portion of which shall be used for Alberta City Summer Program for Mentally Retarded; \$45,000 shall be allocated to the Regional Center for Handicapped Children in Pickens County; \$405,000 shall be allocated to the Southwest Alabama School for Deaf and Blind; \$22,500 shall be allocated to the Jasper Shriner School; \$67,500 shall be allocated to Coffee County Board of Education-Project Independence; \$600,000

to complete the capital outlay project to develop a new secondary school in the Tuscaloosa County School System; \$38,700 shall be allocated to Auburn University Preschool for Multi-handicapped Children; \$67,500 shall be allocated to the Montgomery County Board of Education for the purpose of operating a program for deaf students in public schools; \$90,000 shall be allocated to the Special Education School in Vinemont in Cullman County; \$135,000 shall be allocated to the Dothan City Board of Education for a pilot program for gifted children; \$27,000 shall be allocated to the Houston County Board of Education for a pilot program for gifted children; \$90,000 shall be allocated to Cullman City Special Education Program; \$67,500 shall be allocated to the Cleveland School for the Handicapped; \$25,300 shall be allocated to the Tannehill Learning Center; \$502,269 shall be allocated to the Alabama Institute for Deaf and Blind to implement the purpose of Code of Alabama 1975, as amended, Section 16-39-3, and P.L. 94-142; \$1,025,000 shall be allocated to the Chauncey Sparks Center for Developmental and Learning Disorders of which \$500,000 shall be expended to match a one-time grant and is conditioned upon the receipt of such matching grant funds; \$30,000 shall be allocated to Daleville Board of Education for a program for gifted children; \$27,000 shall be allocated to Geneva City School System for a program for

gifted children; \$135,000 for the Dothan City School for the Hearing Impaired; \$25,000 for the Midfield City Board of Education for Special Education; \$30,000 to the DeKalb County Board of Education for the Northeast Alabama Regional Special Education Assessment Program; \$27,000 for the Geneva County Board of Education-Program for Gifted Students; \$25,000 for Russellville Multi-handicapped Class; \$60,000 for Dale County Board of Education; \$65,000 for Covington County School System for Audiological Center; \$125,000 shall be allocated to the Troy City School System-Project Enrichment; \$75,000 shall be allocated to the Baldwin County Board of Education-Operation Excellence; \$25,000 shall be allocated to Houston County Board of Education; \$50,000 shall be allocated to Calhoun County Board of Education; \$25,000 shall be allocated to Walker County Board of Education; \$100,000 shall be allocated to Jackson County Board of Education; \$35,000 shall be allocated to the Geneva County Board of Education; \$15,000 shall be allocated to the Geneva City Board of Education; \$25,000 shall be allocated to the Chambers County Board of Education; \$25,000 shall be allocated to the Valley City Board of Education; \$25,000 shall be allocated to the Marion County Board of Education; \$25,000 shall be allocated to the Dale County Board of Education; \$100,000 shall be allocated to the Jefferson County

Board of Education; \$300,000 to the Tuscaloosa County Board of Education-Ironman Project; \$500,000 to the Mobile County Board of Education; \$100,000 to the Madison County Board of Education; \$100,000 to the Huntsville City Board of Education; and \$200,000 to the DeKalb County Board of Education-Headstart Program.

(10) Kindergarten Teacher Units ..... 86,007,690

The above appropriation is for 3,082.78 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$71,805,723. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	126.39	\$ 3,347,439
I	24,798	1,442.74	35,777,067
II	21,591	<u>1,513.65</u>	<u>32,681,217</u>
		3,082.78	\$ 71,805,723

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$14,021,624. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$180,343.

Of the above appropriation for Kindergarten Teacher Units, twelve (12) units shall be allocated to the Alabama Institute for Deaf and Blind and for the Preschool Deaf and Blind Program.

It is the intent of the Legislature to fully fund a statewide kindergarten program at the ratio of seventeen (17) students in average daily attendance for the first four (4) months to one (1) teacher unit. In the event less than \$3,082.78 teacher units are earned for the fiscal year 1990-91, then such

amount shall not be allotted or paid. In the event more than 3,082.78 teacher units are earned for the fiscal year 1990-91, then such amounts necessary to pay for these excess teacher units are hereby appropriated.

- (11) Continuation of Teacher  
Units to reduce pupil-teacher  
ratio in grades  
2-6 ..... 15,301,818

The above appropriation is for  
537.75 teacher units and in-  
cludes salaries, other current ex-  
pense, and capital improvements  
at the following rates:

For "Salaries" the total shall not exceed the sum of \$12,824,474. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	80.66	\$ 2,136,280
I	24,798	255.43	6,334,153
II	21,591	<u>201.66</u>	<u>4,354,041</u>
		537.75	\$ 12,824,474

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$2,445,886. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$31,458.

- (12) Supportive Teacher  
Units ..... 52,643,619

The above appropriation provides  
for one extra unit or fraction  
thereof for each aggregate of fif-  
teen (15) units or fraction thereof  
earned on regular units in the  
Minimum Program, Kindergarten  
Teacher Units in (10) and  
Continuation Teacher Units in  
(11). The above appropriation is  
for 1,818.52 teacher units and  
includes salaries, other current

expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$44,265,934. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	365.52	\$ 9,680,797
I	24,798	1,002.00	24,847,596
II	21,591	<u>451.00</u>	<u>9,737,541</u>
		1,818.52	\$ 44,265,934

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$8,271,302. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$106,383.

(13) Special Education Teacher

Units ..... 104,990,749

The above appropriation is for 3,600 teacher units and includes salaries, other current expense, capital improvements, and transportation at the following rates:

For "Salaries" the total shall not exceed the sum of \$87,642,817. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	320.40	\$ 8,485,794
I	24,798	2,602.80	64,544,234
II	21,591	<u>676.80</u>	<u>14,612,789</u>
		3,600.00	\$ 87,642,817

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$16,374,132. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and

that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$210,600.

For "Transportation" the total shall not exceed \$763,200. No funds provided herein shall be used for the payment of any personnel salaries not under the direct control, employment, and supervision of local boards of education.

(14) Driver Education Teacher

Units .....8,290,283

The above appropriation is for 290 driver education units or other teacher units as approved by the local Board of Education and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$6,954,291. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	22.62	\$ 599,091
I	24,798	181.54	4,501,829
II	21,591	<u>85.84</u>	<u>1,853,371</u>
		290.00	\$ 6,954,291

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$1,319,027. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$16,965.

(15) Vocational

Education ..... 86,552,583

The appropriation hereinabove for Vocational Education shall be disbursed or obligated in accordance with rules and regulations approved by the State Board of Education upon the recommendation of the State Superintendent. Of the above appropriation, \$1,344,187 shall be allocated for handicapped students in Vocational Education and \$1,097,892 shall be

allocated for disadvantaged students in Vocational Education. Of the above appropriation, an equal amount shall be allotted to each vocational teacher unit funded herein for support and operations. Notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-40, of the above appropriation, \$356,500 shall be expended solely for vocational support and instructional supplies. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in that section have been expended only for vocational support and instructional supplies. On the affidavit, the superintendent shall state the amount of funds expended for use by vocational teachers and the amount of funds expended for collective purposes for vocational purchases for vocational and instructional supplies. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any person expending funds not in compliance with this appropriation or Section 16-13-13, Code of Alabama 1975, as amended, or falsifying certification of expenditures, shall be guilty of a Class A misdemeanor. Any of the \$356,500 appropriated herein and not expended for vocational support and supplies by any school system shall revert to the Alabama Special Educational Trust Fund. In the event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 50% of its allocation of the \$356,500 appropriated herein for support and instructional supplies notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-144.

Any law, rule or regulation to the contrary notwithstanding, each local board of education may purchase classroom school supplies in bulk pursuant to the competitive bid law, or upon resolution passed at a meeting called for the purpose and with notice, any board may allocate funds to individual schools or to teachers to purchase such classroom supplies by the voucher system and proper accounting safe-guards. Such method shall be determined prior to the beginning of the first term of the school year, by each local school board.

(16) Teachers' Aides .....4,063,500

To be distributed by the State Board of Education to all local boards of education and the Alabama Institute for Deaf and Blind on the basis of average daily attendance for the preceding school year to employ teacher aides so as to provide each teacher employed a minimum of thirty consecutive minutes of time free from instructional or supervisory responsibilities each teaching day.



- (17) Salary Increases for Tenured Teachers (Estimated) ..... 80,250,874

To be distributed by the State Board of Education to the boards of all school districts to continue the additional salary allotment of ten percent of those allotments specified under the Minimum Program for the fiscal year 1984-85 for all state-funded teacher units meeting criteria established by the State Board of Education.

- (18) Support Personnel Salary Increase (Estimated) ... 30,851,367

To be distributed by the State Board of Education to the boards of all school districts to continue those salary increases and the state's share of salary schedule adjustments granted for fiscal year 1985-86 to all full-time support personnel and all adult and student school bus drivers of all local boards of education and all full-time support personnel and all adult and student school bus drivers in the schools under their jurisdiction with the exception of those persons listed on the official Teachers' Institute List. Full-time support personnel shall be defined as those support personnel working a minimum of 20 hours per week. Pursuant to Act 85-516 and Act 85-796, those support personnel working less than a minimum of 20 hours per week shall receive pro rata increases based on the percentage of full-time work as defined above.

- (19) Library Enhancement  
(K-12) .....4,900,000

To be used for the purchase of books and/or audio visual equipment and other library materials, supplies and equipment including book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes. To be distributed based upon a formula to be determined by the State Board of Education. Of the above appropriation for Library Enhancement, \$872,000 shall be expended for library information technology to be expended solely to purchase information technology for school library collections within each public school system. Information technology includes FAX machines, compact disc publications, microfiche or microfilm collections, online catalogs, modems, computer databases, and equipment necessary to access these materials. Hardware or software purchased with these funds shall be used to furnish information for student or school staff use, not for management purposes. Anyone using materials or equipment purchased with these funds must abide by current copyright law or guidelines. From the above appropriation of \$872,000 two thousand dollars shall be made available to each public high school library supervised by certified personnel to be expended for information technology. Any funds not used by the end of the current school year shall be equally distributed to participating libraries.

(20) Guidance Counselor Teacher  
Units .....9,334,339

The above appropriation is for  
316.84 teacher units and in-  
cludes salaries, other current ex-  
pense, and capital improvements  
at the following rates:

For "Salaries" the total shall not exceed the sum of \$7,874,698. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	50.47	\$ 1,336,698
I	24,798	245.34	6,083,941
II	21,591	<u>21.03</u>	<u>454,059</u>
		316.84	\$ 7,874,698

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$1,441,106. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not from funds generated by lunchroom sales and that no lunchroom worker shall be terminated or have his/her work hours reduced as the result of funding such salary increases.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$18,535.

It is the intent of the legislature that the allocations herein for salaries shall be used for the hiring of additional guidance counselors in the elementary schools and that these funds shall not be used to supplant funding for existing guidance counselor units.

(21) Salary Increases for Locally  
Funded Teacher  
Units .....7,875,000

(22) Social Security (FICA)-State  
Share (Estimated) . 125,401,442

(23) Vocational Education  
Equipment .....4,200,000

To be distributed on a formula to  
all local boards of education by  
the State Board of Education.

(24) Huntsville City Board of  
Education .....25,000

The above appropriation to the Huntsville City Board of Education is conditioned upon said Board formulating an agreement that will insure that public school students who reside in an area that has been annexed by the city of Huntsville that is five miles or more from the nearest Huntsville city school of appropriate grade level will receive a quality educational experience which includes public school transportation service. Such transportation service may be provided by Huntsville City Board of Education or by contract by said Board with a county school system closer to the affected student.

(25) Alabama Highway  
Department-

There is hereby appropriated \$1,000,000 from the ASETF to the Alabama Highway Department for start-up expenditures for a bridge load testing research program to determine the safest school bus routes. This appropriation is conditioned upon the availability of funds in the ASETF and the majority approval of the Chairman of the Senate Finance and Taxation Committee, the Chairman of the House Ways and Means Committee and the State Finance Director.

8. PROJECT DARE-DRUG EDUCATION PROGRAM:

(a) Project DARE-Huntsville .....	400,000
(b) Project DARE-Birmingham ..	200,000

SOURCE OF FUNDS:

(1) ASETF .....	600,000
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Total Project DARE-Drug Education Program .....	600,000		600,000
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9. EDUCATION, STATE BOARD OF-POSTSECONDARY PRISON EDUCATION:

(a) Operations and Maintenance	6,550,445	899,225	7,449,670
(b) Library Enhancement .....	50,000		50,000
(c) High Technology Equipment	100,000		100,000
(d) Pay Raise-8% .....	444,000		444,000
(e) FICA-State's Share .....	390,056		390,056
(f) Prison Education Expansion Programs at Clio and Clayton ..	300,000		300,000
(g) Auxiliary Enterprises .....		250,000	250,000
(h) Restricted Funds .....		1,725,630	1,725,630

SOURCE OF FUNDS:

(1) ASETF .....	7,834,501		
(2) Federal and Local Funds .....		2,875,855	

Total State Board of Education-Postsecondary Prison Education .....	7,834,501	2,874,855	10,709,356
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(1) The Operations and Maintenance appropriation above of \$6,550,445 to the State Board of Education for Postsecondary Prison Education shall be distributed in accordance with a formula adopted by the State Board of Education to the colleges listed herein as follows: (1) Central Alabama Community College; (2) Atmore State Technical College; (3) John C. Calhoun State Community College; (4) Jefferson Davis State Junior College; (5) Gadsden State Community College; (6) J.F. Ingram State Technical College; (7) Theodore A. Lawson State Community College; (8) Chauncey Sparks State Technical College.

(2) The Library Enhancement appropriation above of \$50,000 is to be distributed to the colleges listed in (1) above on a fall quarter 1990-91 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$100,000 to the State Board of Education for the Postsecondary Prison System is to be distributed to the colleges listed above in (1) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

(4) The funds appropriated in 9.(d) above are to be expended in accordance with the educational pay raise authorization act of the 1990 Regular Session for the purpose of providing the pay increase authorized therein. Funds shall be allocated to the colleges named in 9.(1) based upon the actual amount needed to fund the said pay raises. Any funds in 9.(d) above which are not allocated may be transferred to the Junior College appropriation found in 10.(d) or to the Technical College appropriation found in 11.(d) for the purpose of funding the authorized pay increase.

**10. EDUCATION, STATE  
BOARD OF JUNIOR COL-  
LEGE SYSTEM:**

(a) Operations and Maintenance	64,655,263	28,718,617	93,373,880
(b) Library Enhancement .....	300,000		300,000
(c) High Technology Equipment	200,000		200,000
(d) Pay Raise-8% .....	5,500,000		5,500,000
(e) FICA-State's Share .....	5,450,904		5,450,904
(f) Northeast Junior College-Cap- ital Outlay .....	500,000		500,000
(g) Auxiliary Enterprises .....		7,886,254	2,886,254
(h) Restricted Funds .....		20,569,960	20,569,960

**SOURCE OF FUNDS:**

(1) ASETF .....	76,606,167		
(2) Other Funds .....		57,174,831	
Total State Board of Education- Junior College System .....	76,606,167	57,174,831	133,780,998

(1) The Operations and Maintenance appropriation above of \$64,655,263 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed herein on the following formula:

(a) The sum of \$200,000 to each junior college.

(b) The remainder of the appropriation is to be allotted to each junior college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1988-89 and the fall, winter and spring quarters of the school year 1989-90 by all the junior colleges listed in this appropriation, provided, however, the nursing and allied health credit hours will be funded on a cost basis based upon the summer quarter of the school year 1988-89 and the fall, winter, and spring quarters of the school year 1989-90 in accordance with the number of quarter hours attempted within the departments. However, only major allied health courses will be funded, related courses will be funded the same as non-health programs.

Continuing education unit hours shall be excluded from the computations herein required. The above appropriation is to be distributed to the following junior colleges: (1) S.D. Bishop State Community College; (2) Brewer State Junior College; (3) John C. Calhoun State Community College; (4) Chattahoochee Valley Community College (Phenix City); (5) Central Alabama Community College; (6) Jefferson Davis State Junior College; (7) Enterprise State Junior College; (8) James H. Faulkner State Junior College; (9) Gadsden State Community College; (10) Patrick Henry State Junior College; (11) Jefferson State Community College; (12) Theodore A. Lawson State Community College; (13) Northeast Alabama State Junior College; (14) Northwest Alabama Community College; (15) Shoals Community College; (16) Snead State Junior College; (17) Southern Union State Junior College; (18) George C. Wallace State Community College (Selma); (19) George C. Wallace State Community College (Dothan); (20) Lurleen B. Wallace State Junior College; (21) George C. Wallace Community College at Hanceville; (22) Shelton State Community College.

(2) The Library Enhancement appropriation above of \$300,000 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1)(b) on a fall quarter 1990-91 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$200,000 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

(4) The funds appropriated in 10.(d) above are to be expended in accordance with the educational pay raise authorization act of the 1990 Regular Session for the purpose of providing the pay increase specified therein. Funds shall be allocated to the colleges named in 10.(1)(b) based upon the actual amount needed to fund said pay raises. Any funds in 10.(d) above which are not allocated may be transferred to the Prison Education appropriation found in 9.(d) or to the Technical College appropriation found in 11.(d) for the purpose of funding the authorized pay increase.

(5) The above appropriation in 10.(f) shall be allocated to Northeast Alabama State Junior College for capital outlay for the construction and equipping of a Fine Arts Building on the Northeast Alabama State Junior College campus.

# 11. EDUCATION, STATE BOARD OF TECHNICAL COLLEGE SYSTEM:

(a) Operations and Maintenance	49,603,166	16,911,363	66,514,529
(b) Library Enhancement .....	500,000		500,000

(c) High Technology Equipment	400,000	400,000
(d) Pay Raise-8% .....	4,200,00	4,200,000
(e) FICA-State's Share .....	3,806,908	3,806,908
(f) Community Colleges - Start-up Costs .....	100,000	100,000
(g) Auxiliary Enterprises .....	3,816,913	3,816,913
(h) Restricted Funds .....	15,904,250	15,904,250

## SOURCE OF FUNDS:

(1) ASETF .....	58,610,074		
(2) Other Funds .....		36,632,526	
Total State Board of Education- Technical College System .....	58,610,074	36,632,526	95,242,600

(1) The Operations and Maintenance appropriation above of \$49,603,166 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed herein as follows. Each such technical college listed below shall receive an operations and maintenance funding base in an equal amount as set by the State Board of Education. The remainder of the operations and maintenance appropriation shall be distributed based on a formula recommended by the Chancellor of the Postsecondary Education System and adopted by the State Board of Education. The formula for a given program may not differ between colleges. The application of the formula shall be standard for all colleges. The following colleges shall receive the distribution as provided hereinabove: (1) Atmore State Technical College; (2) Alabama Aviation and Technical College; (3) Harry M. Ayers State Technical College; (4) Bessemer State Technical College; (5) S.D. Bishop State Community College; (6) John C. Calhoun State Community College; (7) Carver State Technical College; (8) Central Alabama Community College; (9) J.F. Drake State Technical College; (10) Gadsden State Community College-Alabama Technical College Campus; (11) Gadsden State Community College-Gadsden State Technical Institute Campus; (12) Richmond P. Hobson State Technical College; (13) Jefferson State Community College; (14) Theodore A. Lawson State Community College; (15) Douglas McArthur State Technical College; (16) Northwest Alabama Community College; (17) Opelika State Technical College; (18) John M. Patterson State Technical College; (19) Ed E. Reid State Technical College; (20) Shelton State Community College; (21) Shoals Community College; (22) Southwest State Technical College; (23) Chauncey Sparks State Technical College; (24) Council Trenholm State Technical College; (25) C.A. Fredd State Technical College; (26) Walker State Technical College; (27) George C. Wallace State Community College (Selma); (28) George C. Wallace State Community College (Dothan); (29) George C. Wallace State Community College (Hanceville); (30) J.F. Ingram State Technical College.



(2) The Library Enhancement appropriation above of \$500,000 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed above in (1) on a fall quarter 1990-91 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$400,000 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed above in (1) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

(4) The funds appropriated in 11.(d) above are to be expended in accordance with the educational pay raise authorization act of the 1990 Regular Session for the purpose of providing the pay increase specified therein. Funds shall be allocated to the colleges named in 11.(1) based upon the actual amount needed to fund said pay raises. Any funds in 11.(d) above which are not allocated may be transferred to the Junior College appropriation found in 10.(d) or to the Prison Education appropriation found in 9.(d) for the purpose of funding the authorized pay increase.

(5) The Community Colleges - Start-up Costs of \$100,000 shall be allocated to Central Alabama Community College.

## 12. EDUCATION STUDY COMMISSION:

(a) Advisory Services Program ....	250,000
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This appropriation is to be expended pursuant to Code of Alabama 1975, as amended, Sections 16-6-1 through 16-6-6.

### SOURCE OF FUNDS:

(1) ASETF .....	250,000	
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Total Education Study Commission .....	250,000	250,000

## 13. FINANCE, DEPARTMENT OF DATA SYSTEMS MAN- AGEMENT DIVISION, TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program, Estimated .....	2,479,000
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### SOURCE OF FUNDS:

(1) ASETF, Estimated .....	2,479,000
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Total Department of Finance-Data  
Systems Management Division,  
Telephone Revolving Fund,  
Estimated .....

2,479,000

2,479,000

The Telephone Revolving Fund shall assess to using agencies and institutions any additional amount necessary to provide continuing non-interrupted service of a minimum maintenance level. In addition to the above appropriation, there is also hereby conditionally appropriated the sum of four million five hundred twenty-one thousand dollars (\$4,521,000) from the ASETF to be conditioned upon the availability of funds, the recommendation of the Finance Director and upon the approval of the Governor.

14. FINE ARTS, ALABAMA  
SCHOOL OF:

(a) Fine Arts Program .....

1,342,545

SOURCE OF FUNDS:

(1) ASETF .....

1,156,245

(2) Federal and Local Funds .....

186,300

Total Alabama School of Fine  
Arts .....

1,156,245

186,300

1,342,545

15. FINANCE, DEPARTMENT  
OF-DATA SYSTEMS MAN-  
AGEMENT:

(a) Administrative Support Serv-  
ices Program .....

331,000

To be expended for education and  
training for the Governmental  
Accountant and Auditor Train-  
ing Program and the Certified  
Public Manager Program.

SOURCE OF FUNDS:

(1) ASETF .....

331,000

Total Department of Finance-Data Systems Management .....	331,000		331,000
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16. FIREFIGHTERS PERSON-  
NEL STANDARDS AND ED-  
UCATION COMMISSION,  
ALABAMA/ALABAMA FIRE  
COLLEGE-SHELTON STATE  
COMMUNITY COLLEGE:

(a) Operations and Maintenance	892,585	209,262	1,101,847
(b) Shelton State Community College-Capital Outlay .....	1,000,000		1,000,000
(c) Auxiliary Enterprises .....		506,134	506,134
(d) Restricted Funds .....		225,000	225,000

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SOURCE OF FUNDS:

(1) ASETF .....	1,892,585		
(2) Other Funds .....		940,396	

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Total Alabama Firefighters Per- sonnel Standards and Education Commission/Alabama State Fire College-Shelton State Commu- nity College .....	1,892,585	940,396	2,832,981
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Of the above appropriation of  
\$892,585 the sum of \$75,000 shall  
be used for training and instruc-  
tional equipment and the devel-  
opment and delivery of  
hazardous materials training.

17. HEALTH INSURANCE  
BOARD, PUBLIC EDUCA-  
TION EMPLOYEES:

(a) Administrative Support Serv- ices Program .....			138,401,743
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The above appropriation of  
\$138,401,743 shall be expended  
for Hospital/Medical or Dental  
Insurance Assistance for profes-  
sional employees, full-time sup-  
port employees and adult school  
bus drivers for grades K-14 paid  
from State or local funds, em-  
ployees of the Alabama Institute

for the Deaf and Blind, and retired employees eligible under the provisions of Code of Alabama 1975, as amended, Section 16-25A-17. Full-time support employees shall be defined as those support employees working a minimum of 20 hours per week. The appropriation shall be allocated to the provisions of Code of Alabama 1975, as amended, Section 16-25A-17.

It is the intent of the Legislature that the sum of \$138,401,743 appropriated hereinabove shall fund the Public Education Employees Health Insurance Program so that beginning and during fiscal year 1990-91 all eligible full-time employees shall pay the premium rate of not less than \$2.00 per month and all retired eligible employees shall pay the premium rate of not less than \$1.14 per month. The above contribution rates shall not be reduced by any administrative action by the Public Education Employees Health Insurance Board. The benefit level shall not be increased by any administrative action by the Public Education Employees Health Insurance Board. Furthermore it is the intent of the Legislature that no part of the above appropriation be used to pay for dependent coverage under said health insurance plan.

**SOURCE OF FUNDS:**

(1) ASETF .....	138,401,743
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Total Public Education Employ- ees' Health Insurance Board .....	138,401,743	138,401,743
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18. HIGHER EDUCATION,  
ALABAMA COMMISSION  
ON:

(a) Planning and Coordination Services Program .....	2,455,358
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The proposed spending plan for the  
ASETF monies included in the  
above program is as follows:

Operations and Maintenance .....	1,375,117
Program Evaluation .....	200,037
Research Enhancement Program .....	275,000

SOURCE OF FUNDS:

(1) ASETF .....	1,850,154	
(2) Federal and Local Funds .....		605,204

Total Planning and Coordination Services Program (Total Operations) .....	1,850,154	605,204	2,455,358
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(b) Student Financial Aid Program .....	30,678,784
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The proposed spending plan for the  
ASETF monies included in the  
above program is to be distrib-  
uted through ACHE as follows:

(1) Educational Grants Program .....	5,500,000
(2) Alabama National Guard Ed- ucational Assistance .....	200,826

To be expended in accordance with  
Code of Alabama 1975, as  
amended, Sections 31-10-1  
through 31-10-4.

(3) Emergency Secondary Educa- tion Scholarships .....	1,077,007
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To be expended in accordance with  
Code of Alabama 1975, as  
amended, Sections 16-23-18  
through 16-23-23.

- (4) Chiropractic  
Scholarships .....48,676
- To be expended under the provisions of Code of Alabama 1975, as amended, Section 16-5-11.
- (5) Alabama Student Assistance  
Program .....2,009,117

## SOURCE OF FUNDS:

(1) ASETF .....	8,835,626		
(2) Federal and Local Funds .....		21,843,158	
Total Student Financial Aid Program .....	8,835,626	21,843,158	30,678,784
(c) Support of Other Educational Activities Program .....			5,134,963

The proposed spending plan for the ASETF monies included in the above program is to be distributed through ACHE as follows:

- (1) Network of Alabama Academic Libraries  
(NAAL) .....1,085,513
- (2) Southern Regional Education Board (SREB) .....399,417
- (3) EPSCoR-National Science Foundation Program ..1,000,000
- (4) Eminent Scholars  
Program .....2,000,000
- (5) Alabama Small Business  
Development  
Consortium .....580,033
- (6) Policeman's Survivor  
Tuition .....30,000

## SOURCE OF FUNDS:

(1) ASETF .....	5,094,963		
(2) Federal and Local Funds .....		40,000	
Total Support of Other Educational Activities Program .....	5,094,963	40,000	5,134,963

## TOTAL ALABAMA COMMISSION ON HIGHER EDUCATION:

## SOURCE OF FUNDS:

- (1) ASETF ..... 15,780,743

(2) Federal and Local Funds .....	22,488,362		
Grand Total Alabama Commission on Higher Education .....	15,780,743	22,488,362	38,269,105

19. HUMAN RESOURCES, DEPARTMENT OF:

(a) Jobs Opportunities and Basic Skills Training (JOBS) Program .....			1,500,000
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SOURCE OF FUNDS:

(1) ASETF .....	1,500,000		
Total Department of Human Resources .....	1,500,000		1,500,000

In addition to the above appropriation to the Department of Human Resources, there is also hereby appropriated the sum of \$1,500,000 to be conditioned on the availability of funds in the ASETF, the recommendation of the State Finance Director and the approval of the Governor.

20. INDUSTRIAL DEVELOPMENT TRAINING INSTITUTE, ALABAMA:

(a) Industrial Training Program ..			2,032,967
(b) Industrial Development Program .....			5,135,000
(c) Transfer to Alabama Center for Quality and Productivity-Calhoun State Community College .....			500,000

The Alabama Industrial Development Training Institute shall transfer \$500,000 to the Alabama Center for Quality and Productivity-Calhoun State Community College.

SOURCE OF FUNDS:

(1) ASETF .....	7,667,967		
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Total Alabama Industrial Development Training Institute .....	7,667,967	7,667,967
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The above appropriation to the Industrial Development Program 20.(b) shall include the sum of \$250,000, \$175,000 of which shall be utilized for job retraining at Trenholm State Technical College and \$75,000 of which shall be utilized for job retraining at John M. Patterson State Technical College for former employees of Brockway Glass Company. Of the above appropriation to the Alabama Industrial Development Training Institute, \$400,000 shall be allocated to USX in Birmingham, Alabama.

In addition to the above appropriation to the Alabama Industrial Development Training Institute, there is also hereby appropriated \$200,000 for the retraining of employees of any hazardous waste facility who are laid off as a result of House Bill 310 of the 1990 Regular Session. It is the intent of the Legislature that this appropriation is conditioned only upon the layoff of 25% or more of the employees of any such hazardous waste facility as a result of said House Bill 310.

21. ALABAMA CENTER FOR QUALITY AND PRODUCTIVITY-TO BE ADMINISTERED BY CALHOUN STATE COMMUNITY COLLEGE:

(a) Operations and Maintenance	4,998,000
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SOURCE OF FUNDS:

(1) ASETF .....	4,498,000
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(2) Transfer from Alabama Industrial Development Training Institute .....

500,000

Total Alabama Center for Quality and Productivity .....

4,498,000

500,000

4,998,000

Of the above appropriation to the Alabama Center for Quality and Productivity, \$550,000 shall be expended for a training center in the Shoals area.

Of the above appropriation to the Alabama Center for Quality and Productivity \$250,000 shall be expended for training and re-training programs at Gadsden State Community College in Gadsden and \$250,000 shall be expended for training at Gulf State Steel in Gadsden.

## 22. LIBRARY SERVICE, ALABAMA PUBLIC:

(a) Public Library Service Program .....

8,268,584

### SOURCE OF FUNDS:

(1) ASETF .....

7,600,330

(2) Federal and Local Funds .....

668,254

Total Alabama Public Library Service .....

7,600,330

668,254

8,268,584

Of the above appropriation, a minimum of \$5,128,750 shall be distributed on a per capita basis in accordance with existing state aid rules to the public libraries within the state.

## 23. MATH AND SCIENCE, ALABAMA SCHOOL OF:

(a) Math and Science Program ...

500,000

### SOURCE OF FUNDS:

(1) ASETF .....

500,000

Total Alabama School of Math and Science .....	500,000		500,000
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24. MARINE ENVIRONMENTAL SCIENCES CONSORTIUM:			
(a) Support of Other Educational Activities Program .....			1,583,779
(b) Capital Outlay .....			850,000
SOURCE OF FUNDS:			
(1) ASETF .....	1,958,331		
(2) Federal and Local Funds .....		475,448	
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Total Marine Environmental Sciences Consortium .....	1,958,331	475,448	2,433,779
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25. MEDICAL SCHOLARSHIPS AWARDS, BOARD OF:			
(a) Support of Other Educational Activities Program .....			677,000
SOURCE OF FUNDS:			
(1) ASETF .....	677,000		
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Total Board of Medical Scholarships Awards .....	677,000		677,000
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To be expended under the provisions of Code of Alabama 1975, as amended, Sections 16-47-121 through 16-47-129.			
26. MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF:			
(a) Institutional Treatment and Care-Mental Illness Program ....			7,425,164
Of the above appropriation, \$2,937,996 shall be expended at the Eufaula Adolescent Center.			
(b) Institutional Treatment and Care-Mental Retardation Program .....			2,604,522
SOURCE OF FUNDS:			
(1) ASETF .....	10,029,686		
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Total Department of Mental Health and Mental Retardation .....	10,029,686	10,029,686
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27. MEDICAID AGENCY, ALA- BAMA:		350,000
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This appropriation for the Alabama Medicaid Agency shall be used for Health Research and Policy Development conducted by the University of Alabama in Birmingham Medical Center.

SOURCE OF FUNDS:

(1) ASETF .....	350,000	
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Total Alabama Medicaid Agency	350,000	350,000
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28. MOTOR SPORTS HALL OF  
FAME:

(a) Tourism and Travel Promo- tion Program .....		100,000
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SOURCE OF FUNDS:

(1) ASETF .....	100,000	
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Total Motor Sports Hall of Fame	100,000	100,000
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29. NURSING, ALABAMA  
BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....		57,000
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SOURCE OF FUNDS:

(1) ASETF-Transfer-as provided in Code of Alabama 1975, as amended, Sections 34-21-60 through 34-21-63 for Graduate Nursing Scholarships .....	57,000	
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Total Alabama Board of Nursing	57,000	57,000
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30. OPTOMETRIC SCHOLAR-  
SHIP AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program .....		149,000
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SOURCE OF FUNDS:

(1) ASETF .....	149,000	
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Total Board of Optometric Scholarship Awards .....	149,000	149,000
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To be expended under the provisions of the Code of Alabama 1975, as amended, Sections 34-22-60 through 34-22-65.

31. PEACE OFFICERS' STANDARDS AND TRAINING COMMISSION, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program .....		333,094
(b) Certified Law Enforcement Academy Program .....		880,925

Of the above appropriation for the Certified Law Enforcement Academy Program, the \$550,925 of ASETF monies included therein shall be expended as follows:

Jacksonville State University .....	189,442
University of Alabama .....	149,442
James H. Faulkner Jr. College .....	149,442
Troy State University at Montgomery .....	62,599
Total .....	550,925

SOURCE OF FUNDS:

(1) ASETF .....	864,019	
(2) Alabama Peace Officers' Standards and Training Fund as provided in Code of Alabama 1975, as amended, Sections 36-21-40 through 36-21-50 .....		350,000

Total Alabama Peace Officers'  
Standards and Training  
Commission .....

864,019      350,000      1,214,019

32. POSTSECONDARY EDUCATION DEPARTMENT:

(a) Postsecondary Two-Year Institutions Program .....

3,303,541

The proposed spending plan for the  
ASETF monies included in the  
above program is as follows:

Chancellor's Office

Operations .....1,910,000

Program Planning and

Enhancement .....150,000

Displaced Homemakers'

Program .....150,000

Building Operations .....200,000

SOURCE OF FUNDS:

(1) ASETF .....

2,410,000

(2) Federal and Local Funds .....

893,541

Total Postsecondary Education

Department .....

2,410,000      893,541      3,303,541

33. POSTSECONDARY EDUCATION-JUNIOR AND TECHNICAL COLLEGES:

(a) Deferred Maintenance

Program .....

1,990,000

SOURCE OF FUNDS:

(1) ASETF .....

1,990,000

Total Postsecondary Education-

Junior and Technical Colleges ..

1,990,000      1,990,000

Of the above appropriation to the  
Postsecondary Education-De-  
ferred Maintenance, \$1,000,000  
shall be allocated to Lawson  
State Community College for  
capital outlay.

34. PRORATION PREVENTION ACCOUNT:

(a) Proration Prevention

Account .....

8,000,000

## SOURCE OF FUNDS:

(1) ASETF .....	8,000,000	
Total Proration Prevention Account .....	8,000,000	8,000,000

To be expended under the provisions of the Code of Alabama 1975, as amended, Section 40-1-32.1.

35. PUBLIC SCHOOL AND COLLEGE AUTHORITY, ALABAMA:

(a) Special Services Program .....		725,000
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## SOURCE OF FUNDS:

(1) ASETF .....	725,000	
Total Alabama Public School and College Authority .....	725,000	725,000

36. RETIREMENT SYSTEM OF ALABAMA, EMPLOYEES' (ASETF SHARE):

(a) Retirement Systems Program, Estimated .....		464,000
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## SOURCE OF FUNDS:

(1) ASETF-Employees' Retirement System, Estimated .....	307,000	
(2) ASETF-Employees' Special Pension, Acts 85-631 and 88-600, Estimated .....	157,000	
Total Employees' Retirement System of Alabama (ASETF Share) .....	464,000	464,000

37. RETIREMENT SYSTEM OF ALABAMA, TEACHERS' (ASETF SHARE):

(a) Retirement Systems Program, Estimated .....		232,342,500
(b) Term Life Insurance .....		3,150,000

Persons eligible for this insurance benefit shall be the following:

- (1) full-time members of the Teachers' Retirement System of

Alabama shall be eligible for the full benefit; and,

- (2) part-time members of the Teachers' Retirement System of Alabama shall be eligible for proportional benefit based on the percentage of time each works in relationship to full-time work.

**SOURCE OF FUNDS:**

(1) ASETF-Teachers' Retirement System, Estimated .....	191,050,500	
(2) ASETF-Teachers' Special Pension Fund, Estimated .....	41,292,000	
(3) ASETF-Term Life Insurance .....	3,150,000	
<hr/>		
Total Teachers' Retirement System of Alabama (ASETF Share) .....	235,492,500	235,492,500

**38. SOCIAL SECURITY (ASETF SHARE):**

- (a) For State's share of Social Security, Estimated ..... 100,000

**SOURCE OF FUNDS:**

(1) ASETF .....	100,000	
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Total Social Security (ASETF Share) .....	100,000	100,000

The above appropriation is to be used for prior period adjustments.

**39. SUPERCOMPUTER AUTHORITY, ALABAMA:**

- (a) Administrative Support Services Program ..... 8,500,000

The above appropriation is to be expended in accordance with Sections 41-10-390 through 41-10-406, Code of Alabama 1975.

**SOURCE OF FUNDS:**

(1) ASETF .....	7,000,000	
(2) Supercomputer Revolving Fund, Estimated .....		1,500,000
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Total Alabama Supercomputer Authority .....	7,000,000	1,500,000	8,500,000
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40. TENURE COMMISSION, STATE:

(a) Regulation Program .....			10,743
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SOURCE OF FUNDS:

(1) ASETF .....	10,743		
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Total State Tenure Commission ..	10,743		10,743
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41. TELEVISION COMMISSION, EDUCATIONAL:

(a) Educational Television Program .....			6,747,390
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(b) Public Radio Service Programs .....			943,181
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SOURCE OF FUNDS:

(1) ASETF .....	4,852,571		
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(2) Federal and Local Funds .....		2,838,000	
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Total Educational Television Commission .....	4,852,571	2,838,000	7,690,571
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Of the above \$4,752,571 appropriation, \$400,000 shall be expended to tie-in the United Star Network. In addition to the above appropriation, there is also hereby conditionally appropriated the sum of \$600,000 from the ASETF for equipment matching funds, which shall be conditioned upon the availability of funds in the ASETF, the awarding of a federal grant for such purpose and upon the recommendation of the State Finance Director and the approval of the Governor.

42. UNEMPLOYMENT COMPENSATION-LOCAL BOARDS:

(a) Financial Assistance Program .....			500,000
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## SOURCE OF FUNDS:

(1) ASETF, Estimated .....	500,000	
Total Unemployment Compensation-Local Boards .....	500,000	500,000

## 43. VETERANS' AFFAIRS, DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program .....	4,409,248
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## SOURCE OF FUNDS:

(1) ASETF-Transfer .....	4,409,248	
Total Department of Veterans' Affairs .....	4,409,248	4,409,248

The above appropriation is for Veterans' Education Benefits and includes pro rata administration costs of the Department of Veterans' Affairs and for the reimbursement to every State institution of higher learning, college, university, junior college or technical college in which benefits are given to Veterans, their wives, widows, or children under the provisions of Code of Alabama 1975, as amended, Sections 31-6-1 through 31-6-17.

## 44. YOUTH SERVICES, DEPARTMENT OF:

(a) Financial Assistance Program .....	4,944,602
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The above appropriation for Financial Assistance Program includes \$3,596,540 of ASETF monies. The above appropriation shall be expended by the Youth Services Department School District in a manner consistent with the funding formula cooperatively established by the Youth Services Board and the State Board of Education pursuant to the provisions of Code

of Alabama 1975, as amended,  
Sections 44-1-70 through 44-1-  
77.

**SOURCE OF FUNDS:**

(1) ASETF .....	3,596,540		
(2) Federal and Local Funds .....		1,348,062	
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Total Department of Youth Services .....	3,596,540	1,348,062	4,944,602
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**SECTION 4.**

**COLLEGES, UNIVERSITIES  
AND SCHOOLS:**

**I. BOARD OF TRUSTEES OF  
UNIVERSITY OF ALA-  
BAMA:**

**A. The University of Alabama  
System**

1. Operations and Maintenance and Program Support for the University of Alabama .....	81,906,921	43,600,325	125,507,246
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- (a) The above amounts distrib-  
uted to the President of the Uni-  
versity of Alabama for operations  
and maintenance funding shall  
include support for such entities  
as Industrial Management and  
Manufacturing Technology and  
Magnetic Information Technol-  
ogy Programs; Center for Emo-  
tionally Disturbed Children;  
Alabama Poison Control Cen-  
ter; Nursing Scholarships; Ad-  
vocacy Program for the  
Developmentally Disabled; Cap-  
stone Medical Center; Sports  
Medicine; Alabama Museum of  
Natural History; College of  
Community Health Sciences;  
University Research Library;  
Research, Extension and Public  
Service; School of Mines and  
Energy Development; Computer  
Research and Development;  
Emergency Medical Services

(Paramedic Training); Rural Infant Stimulation Environment Program; High Risk Nursery; Safe State Program; Tannehill Learning Center; Shakespeare Festival.

2. Operations and Maintenance and Program Support for the University of Alabama at

Birmingham ..... 123,977,113    326,291,262    450,268,375

- (a) The above amounts distributed to the President of the University of Alabama at Birmingham for operations and maintenance funding shall include support for such entities as University College; Family Practice Residency Programs at Anniston, East End, Jefferson County, Montgomery, Selma, and Gadsden; School of Medicine; University Hospitals; School of Optometry; School of Community and Allied Health; Regional Technical Institute; Joint Health Sciences; Educational Finance Initiative; Department of Pediatrics and Children's Hospital; Center for Labor Education and Research; Student Nurses Loans; Center for Diabetes Research; Urban Research and Public Service; School of Dentistry; System Medical Education Program; School of Nursing; Health Related Research and Public Service; Public Health Research Program; Medical Genetics Program; Nursing Scholarships; Program Enhancement/Minority Recruitment; Hypertension Research; Multipurpose Arthritis Center; School of Engineering and Business Telecommunications Research Center; School of Public Health;

Montgomery Internal Medicine Residency; Center for Advancement of Developing Industries; Center for Cystic Fibrosis Research; Center for Congenital Health Disease; Biomedical Engineering Sciences; Center for Nuclear Magnetic Resonance Studies; Dental/Medical Research; Medical Grants; Virology Research; Neuro-Science Research; Geriatric Service and Research Program; Internal Medicine Development; Sudden Death Research; Research Center for Biomedical Engineering Sciences; Parkinson's Disease-Medical Research.

3. Operations and Maintenance and Program Support for the University of Alabama in Huntsville .....

26,723,747    17,638,118    44,361,865

- (a) The above amounts distributed to the President of the University of Alabama in Huntsville for operations and maintenance funding shall include support for the following entities: School of Primary Medical Care; Kenneth E. Johnson Research Center; Space Initiative; UAH Medical Clinics; Alabama Solar Energy Center; Center for High Technology Management and Economic Research; Rural Primary Care Clerkship; Research Institute; Developmental Computer Education; Center for Applied Optics; Nursing Scholarships; Center for Microgravity Science; Center for Robotics.

4. Special Mental Health, University of Alabama at Birmingham .....

3,679,252

3,679,252

(Of this amount, \$300,000 shall be

expended for Psychiatric Research.)

5. Chauncey Sparks Center for Developmental and Learning Disorders, University of Alabama at Birmingham .....	742,925	742,925
6. Social Security (FICA)-State Share .....	23,739,463	23,739,463
7. Auxiliary Enterprises .....	56,870,113	56,870,113
8. Restricted Funds .....	158,419,161	158,418,161

#### SOURCE OF FUNDS:

(1) ASETF .....	260,769,421	
(2) Other Funds .....	602,818,979	
Total University of Alabama System .....	260,769,421	602,818,979 863,588,400

#### II. BOARD OF TRUSTEES OF UNIVERSITY OF ALABAMA:

A. University of Alabama-Alabama International Economic Leadership Institute .....	125,000	125,000
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#### SOURCE OF FUNDS:

(1) ASETF .....	125,000	
Total University of Alabama-Alabama International Economic Leadership Institute .....	125,000	125,000

#### III. BOARD OF TRUSTEES OF ALABAMA A&M UNIVERSITY

A. Alabama A&M University			
1. Operations and Maintenance and Program Support .....	17,641,566	7,334,264	24,975,830

In addition to operations and maintenance, includes support for such entities as: Vocational Teacher Training; Cooperative Extension, Research and Services; Black Archives Museum.

2. Research, Public Service and Extension .....	1,000,000		1,000,000
3. Social Security (FICA)-State Share .....	1,356,089		1,356,089
4. Auxiliary Enterprises .....		4,707,083	4,707,083
5. Restricted Funds .....		8,664,697	8,664,697

## SOURCE OF FUNDS:

(1) ASETF .....	19,997,655		
(2) Other Funds .....		20,706,044	
Total Alabama A&M University ..	19,997,655	20,706,044	40,703,699

## IV. BOARD OF TRUSTEES OF ALABAMA STATE UNIVERSITY

## A. Alabama State University

1. Operations and Maintenance and Program Support .....	17,657,406	7,473,906	25,131,312
2. Program Accreditation/Educational Enhancement .....	950,000		950,000
3. Social Security (FICA)-State Share .....	1,106,752		1,106,752
4. Auxiliary Enterprises .....		3,763,323	3,763,323
5. Restricted Funds .....		7,622,943	7,622,943

## SOURCE OF FUNDS:

(1) ASETF .....	19,714,158		
(2) Other Funds .....		18,860,172	
Total Alabama State University ...	19,714,158	18,860,172	38,574,330

## V. BOARD OF TRUSTEES OF ALABAMA STATE UNIVERSITY

## A. Alabama State University-Miles College Consortium .....

400,000	400,000
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## SOURCE OF FUNDS:

(1) ASETF .....	400,000
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Total Alabama State University- Miles College Consortium .....	400,000		400,000
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#### VI. STATE BOARD OF EDUCATION

##### A. Athens State College

1. Operations and Maintenance and Program Support .....	4,435,074	2,261,207	6,696,281
2. Social Security (FICA)-State Share .....	350,325		350,325
3. Auxiliary Enterprises .....		517,712	517,712
4. Restricted Funds .....		715,131	715,131

##### SOURCE OF FUNDS:

(1) ASETF .....	4,785,399		
(2) Other Funds .....		3,494,050	
Total Athens State College .....	4,785,399	3,494,050	8,279,449

#### VII. BOARD OF TRUSTEES OF AUBURN UNIVERSITY

##### A. Auburn University System

1. Operations and Maintenance and Program Support .....	141,768,354	73,560,977	215,329,331
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Of the above amounts distributed to the Auburn University System for operations and maintenance, funding shall include support for such entities as Auburn University at Montgomery, the Alabama Cooperative Extension Service, the Alabama Agricultural Experiment Station System, the College of Veterinary Medicine, and the Fisheries Department for Crayfish Research.

2. Social Security (FICA)-State Share .....	8,857,775		8,857,775
3. Auxiliary Enterprises .....		40,709,464	40,709,464
4. Restricted Funds .....		54,704,530	54,704,530

##### SOURCE OF FUNDS:

(1) ASETF .....	150,626,129		
(2) Other Funds .....		168,974,971	

Total Auburn University System	150,626,129	168,974,971	319,601,100
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# VIII. BOARD OF TRUSTEES OF JACKSONVILLE STATE UNIVERSITY

## A. Jacksonville State University

1. Operations and Maintenance and Program Support .....	19,673,981	11,273,973	30,947,954
2. Social Security (FICA)-State Share .....	1,555,705		1,555,705
3. Auxiliary Enterprises .....		4,386,790	4,386,790
4. Restricted Funds .....		4,719,956	4,719,956

## SOURCE OF FUNDS:

(1) ASETF .....	21,229,686		
(2) Other Funds .....		20,380,719	
Total Jacksonville State University .....	21,229,686	20,380,719	41,610,405

# IX. BOARD OF TRUSTEES OF LIVINGSTON UNIVERSITY

## A. Livingston University

1. Operations and Maintenance and Program Support .....	6,204,184	1,928,024	8,132,208
2. Social Security (FICA)-State Share .....	426,803		426,803
3. Auxiliary Enterprises .....		2,425,286	2,425,286
4. Restricted Funds .....		116,302	116,302

## SOURCE OF FUNDS:

(1) ASETF .....	6,630,987		
(2) Other Funds .....		4,469,612	
Total Livingston University .....	6,630,987	4,469,612	11,100,599

# X. BOARD OF TRUSTEES OF UNIVERSITY OF MONTE- VALLO

## A. University of Montevallo

1. Operations and Maintenance and Program Support .....	10,243,427	5,091,464	15,334,891
2. Social Security (FICA)-State Share .....	789,107		789,107



3. Auxiliary Enterprises .....	4,686,096	4,686,096
4. Restricted Funds .....	1,605,687	1,605,687

## SOURCE OF FUNDS:

(1) ASETF .....	11,032,534		
(2) Other Funds .....		11,383,247	
Total University of Montevallo ....	11,032,534	11,383,247	22,415,781

# XII. BOARD OF TRUSTEES OF UNIVERSITY OF NORTH ALABAMA

## A. University of North Alabama

1. Operations and Maintenance and Program Support .....	14,701,805	7,631,291	22,333,096
2. Social Security (FICA)-State Share .....	1,016,239		1,016,239
3. Auxiliary Enterprises .....		2,066,225	2,066,225
4. Restricted Funds .....		639,576	639,576

## SOURCE OF FUNDS:

(1) ASETF .....	15,718,044		
(2) Other Funds .....		10,337,092	
Total University of North Alabama .....	15,718,044	10,337,092	26,055,136

# XII. BOARD OF TRUSTEES OF UNIVERSITY OF SOUTH ALABAMA

## A. University of South Alabama

1. Operations and Maintenance and Program Support .....	46,308,690	117,829,492	164,138,182
2. Social Security (FICA)-State Share .....	6,057,190		6,057,190
3. Auxiliary Enterprises .....		9,175,000	9,175,000
4. Restricted Funds .....		16,125,000	16,125,000

## SOURCE OF FUNDS:

(1) ASETF .....	52,365,880		
(2) Other Funds .....		143,129,492	

Total University of South Alabama .....	52,365,880	143,129,492	195,495,372
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### XIII. BOARD OF TRUSTEES OF TROY STATE UNIVER- SITY

#### A. Troy State University System

1. Operations and Maintenance and Program Support .....	20,304,653	21,285,130	41,589,783
2. Social Security (FICA)-State Share .....	1,617,896		1,617,896
3. Auxiliary Enterprises .....		6,991,528	6,991,528
4. Restricted Funds .....		3,504,387	3,504,387

#### SOURCE OF FUNDS:

(1) ASETF .....	21,922,549		
(2) Other Funds .....		31,781,045	

Total Troy State University System .....	21,922,549	31,781,045	53,703,594
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### XIV. BOARD OF TRUSTEES OF ALABAMA INSTITUTE FOR DEAF AND BLIND

(a) Adult Programs .....	3,761,366	3,119,221	6,880,587
(b) Children and Youth Programs .....	11,880,297	2,027,528	13,907,825
(c) Industries for the Blind .....	2,131,366	10,450,000	12,581,366

#### SOURCE OF FUNDS:

(1) ASETF .....	17,773,029		
(2) Other Funds .....		15,596,749	

Total Alabama Institute for Deaf and Blind .....	17,773,029	15,596,749	33,369,778
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In addition to the above appropriation, there is hereby conditionally appropriated the sum of two hundred fifty thousand dollars (\$250,000) from the ASETF to the Alabama Institute for the Deaf and Blind for classroom books, and library supplies for deaf and blind to be conditioned upon availability of funds, the

recommendation of the Finance Director, and the approval of the Governor.

**SECTION 5.** No funds provided herein for the public schools, including funds for Other Current Expenses and salaries of the Minimum Program and Financial Assistance Program and/or for support personnel salaries, shall be used for the payment of any salaries of personnel not under the direct control, employment, and supervision of local boards of education.

**SECTION 6.** In addition to appropriations herein made, all gifts, grants, contributions, or entitlements, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

**SECTION 7.** The State Superintendent of Education shall make requisitions on the State Comptroller in favor of the proper beneficiary in accordance with the law and rules and regulations governing the expenditure or disbursement of any and all funds appropriated to the State Department of Education and/or the State Board of Education in this Act, whereupon the Comptroller shall issue his warrant therefor. All other appropriations in this Act shall be paid on request by the Comptroller in the manner now provided by law.

**SECTION 8.** Nothing in this Act shall be construed to affect or repeal any law authorizing or permitting any college, school or other education or eleemosynary institution of the State to receive, collect or disburse any fees, tuitions, charges, sales, endowments, trusts or income therefrom, which are now or may hereafter be authorized to receive, collect or disburse. The receiving college, school or institution shall further maintain separate accounts for such receipts or shall maintain a system of accounting which will show a cash flow of such receipts received under the provision of this appropriation.

**SECTION 9.** The appropriations made herein to the departments, boards, offices, commissions, and agencies include the amount necessary and said departments, boards, offices, commissions, and agencies are hereby

directed to make the transfer of funds to the State Personnel Department in the amounts enumerated in the General Appropriation Act for the fiscal year ending September 30, 1991.

**SECTION 10.** All encumbered balances of a previous fiscal year appropriation other than the exclusions authorized by the Code of Alabama 1975, as amended, Section 41-4-93, shall lapse on September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the ASETF or earmarked fund from which the appropriation or appropriations were made.

**SECTION 11.** That, if any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

**SECTION 12.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:42 P.M.

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Act No. 90-736

S.J.R. 278—Senator Barron

### SENATE JOINT RESOLUTION

EXPRESSING THE LEGISLATIVE INTENT REGARDING  
ACT NO. 88-291, 1988 REGULAR SESSION RELATING TO A  
JACKSON COUNTY GASOLINE TAX.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,  
BOTH HOUSES THEREOF CONCURRING, That the intent of  
Section 13 of Act No. 88-291, H. 634, 1988 Regular Session, is that  
the revenue levied pursuant to said aforementioned Act No. 88-291  
may be utilized for road materials in place.

Approved May 3, 1990

Time: 5:45 P.M.

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Act No. 90-737

S.J.R. 274—Senators Dial and Bedsole

### SENATE JOINT RESOLUTION

COMMENDING AND CONFERRING HONORARY CITI-  
ZENSHIP UPON LISA GUREVITCH.

WHEREAS, Lisa Gurevitch, a native of Montreal, Canada, attended high school in Nashville, Tennessee, and is a graduate of the University of Missouri; and

WHEREAS, a resident of the United States for the past ten years and now a permanent resident of the State of Alabama, Lisa has lived in Montgomery since August 1989, and for the past one and one-half years has been employed by WAKA-Television; and

WHEREAS, Lisa Gurevitch, a general assignment reporter, is a member of Channel 8's news team which covers the Legislature and other State House news; and

WHEREAS, a very competent reporter, known for her factual and unbiased coverage, Lisa has earned the confidence and respect of members of the Legislature, as well as our friendship and highest regard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in sincere praise of her outstanding professional achievement and service, and in recognition of her permanent residency in the State of Alabama and the United States, we hereby confer honorary citizenship upon Lisa Gurevitch of Montgomery, Alabama, and do further direct that she receive a copy of this resolution executed in friendship and highest personal regard.

Approved May 3, 1990

Time: 5:46 P.M.

Act No. 90-738

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S.J.R. 275—Senators Dial, Bedsole, Amari, Bailey, Barron, Bedford, Bennett, Bishop, Cabaniss, Campbell, Corbett, Covington, deGraffenried, Denton, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hale, Hilliard, Holmes, Horn, Langford, Lipscomb, Manley, Mitchem, Parsons, Preuitt, Rice, Sanders, Smith (B), Smith (J) and Windom

#### SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MARY GEORGE WAITE OF CENTRE, ALABAMA.

WHEREAS, the Senate of the Alabama Legislature grievously records the death of Mrs. Mary George Jordan Waite of Centre, Alabama, on April 21, 1990; and

WHEREAS, a native and life long resident of Centre, her professional accomplishments and leadership in the field of banking resulted in her induction into the Women's Academy of Honor on April 7, 1990; and

WHEREAS, Mrs. Waite, a truly beloved citizen of Centre, Cherokee County and the state, was a kind, caring and gentle person whose thoughts and deeds were for those in need of a helping hand, a word of cheer and the support and encouragement of a faithful friend; and

WHEREAS, in the death of Mary George Waite, the community has suffered the loss of a truly lovely lady and a former, longtime supporter of numerous civic and charitable affairs in her native Centre; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Mary George Jordan Waite of Centre, Alabama, and extend sincere and deepest sympathy to her husband, Dan Waite, Jr.; her daughter, Betty Graves and her grandchildren, Kim, Meg and Jake, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved May 3, 1990

Time: 5:47 P.M.

Act No. 90-739

S.J.R. 276—Senators Hilliard and Parsons

### SENATE JOINT RESOLUTION

COMMENDING JUDGE RALPH COOK FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT AND SERVICE.

WHEREAS, Ralph Cook is a distinguished graduate of the Class of 1967 from Howard University School of Law; and

WHEREAS, Ralph Cook has had a distinguished career in the field of law, first as an Assistant District Attorney in Jefferson County and then as a member of the law firm of Hilliard, Jackson, Cook, Little and Stansel; and

WHEREAS, Ralph Cook was elected as the first black District Court Judge In Jefferson County and later elected as the first black Circuit Court Judge; and

WHEREAS, Ralph Cook has served as a distinguished Dean of Miles Law School; and

WHEREAS, Ralph Cook is retiring as Dean of Miles Law School; and

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Judge Ralph Cook for outstanding achievement, and dedicated service in his distinguished legal career which has been a credit to Jefferson County and the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Judge Ralph Cook that he may know of our sincere praise and highest esteem.

Approved May 3, 1990

Time: 5:48 P.M.

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Act No. 90-740

S. 112—Senator Denton

### AN ACT

Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1991, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Department of Agriculture and Industries out of any monies in the state treasury not otherwise appropriated the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary for the fiscal year, which said sum shall be used and expended by said department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the Commissioner of Agriculture and Industries or the State Veterinarian for the purpose of arresting, eradicating and preventing the spread of hog cholera disease, African swine fever and other diseases of swine. The amount of any payments to owners of swine from the appropriation herein made shall be determined pursuant to the procedure and method set forth under Sections 2-15-160 through 2-15-168 of the Code of Alabama 1975.

**Section 2.** The appropriation herein made shall be conditioned upon the condition of the general fund and with the approval of the Governor.

**Section 3.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 5:49 P.M.

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Act No. 90-741

S. 13—Senator Bedsole

### AN ACT

This bill creates the Spill Response Task Force to evaluate the state's readiness to respond to oil and hazardous material spills in the coastal waters and provides for the appointment of the membership and meetings of the task force.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is created the Spill Response Task Force consisting of eighteen members to be appointed as follows: There shall be one representative from the Department of Conservation and Natural Resources, who shall serve as committee chairperson; one representative from the Department of Environmental Management; and the Governor shall request the United States Coast Guard to designate a Coast Guard representative, stationed in Alabama. The Speaker of the House of Representatives, the Lieutenant Governor and the Governor shall each appoint five members, one member each shall be appointed from among the following: the ports and spillage cooperatives in the state; groups advocating the protection of the environment; the ground transportation industry; the maritime transportation industry; and the petroleum industry.

**Section 2.** Each task force member shall be entitled to receive per diem and expenses for travel, as provided by law, to be paid out of funds of the Department of Conservation and Natural Resources, while carrying out official business of the task force. The task force shall be staffed by the Department of Conservation and Natural Resources. Appointments shall be made no later than July 15, 1990, and the task force shall continue to exist and appointed members shall continue to serve until June 1, 1991. All meetings of the committee shall be open to the public.

**Section 3.** The Spill Response Task Force shall:

(a) Investigate and evaluate Alabama's readiness to respond to oil and hazardous material spills in coastal waters with regard to:

1. Prevention, including pilot training and certification, channel markings, safety regulations, and other prevention factors;



2. Containment of spilled material;
3. Removal of spilled material; and
4. Cleanup and disposal of waste and residual material from spills.

(b) Determine the existence of or need for a coordinated plan, and what elements the plan should contain, to implement prevention, containment, removal, and cleanup of oil and hazardous material spills.

(c) Meet with parties which have some responsibility in the prevention of and response to oil and hazardous material spills to receive comments and input relative to the task force's investigations.

(d) Consider in its investigation the capabilities and spill response program of the United States Government.

(e) Compile and review current inquiries, recent and ongoing studies, and legislation pertinent to spill response readiness.

(f) Submit to the Speaker of the House of Representatives, the Lieutenant Governor and the Governor by January 1, 1991, a report that clearly states recommendations necessary to improve the state's readiness to prevent, contain, remove, and clean up petroleum and hazardous material spills in coastal waters. The task force shall recommend in its report the designation of an existing or proposed governmental entity to be a central review and coordinating body for inquiries into and studies on spill response readiness. In addition to specific recommendations, the report shall include legislation needed to implement the recommendations.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 5:50 P.M.

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Act No. 90-742

S.J.R. 234—Senators Sanders, Dial and Ellis

### SENATE JOINT RESOLUTION

URGING THE CONSIDERATION OF SUMTER COUNTY  
AS THE LOCATION FOR THE NEXT CORRECTIONAL FA-  
CILITY CONSTRUCTED BY THE STATE.

WHEREAS, the Alabama Legislature notes with concern the severe economic conditions presently existing in Sumter County due to the lack of industry and employers; and

WHEREAS, this legislative body is aware of the possible loss of additional jobs due to certain economic conditions and the present economic climate; a circumstance which would increase the already unacceptably high unemployment rate in Sumter County; and

WHEREAS, the Alabama Legislature believes that the state should give intent consideration to locating major state facilities in Sumter County so that the employment and economic status of those citizens may be improved; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the Alabama Legislature strongly urges the Governor, the Department of Corrections and other relevant decision-makers to give initial and careful consideration to Sumter County as the location of the next Correctional Facility to be constructed by the state.

**RESOLVED FURTHER,** That copies of this resolution be sent to the Governor and the Commissioner of the Department of Corrections so that they may be advised of the Alabama Legislature's paramount desire that Sumter County be considered initially and considered carefully as the location for the next state correctional facility.

Approved May 3, 1990

Time: 5:51 P.M.

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Act No. 90-743

H. 238—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Warrior-Tombigbee Development Association for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Warrior-Tombigbee Development Association from the State General Fund the sum of Thirty-five thousand dollars (\$35,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year

1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:00 P.M.

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Act No. 90-744

H. 288—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Beacon House—Jasper for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Beacon House—Jasper from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:01 P.M.

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Act No. 90-745

H. 289—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Alabama Travel Council for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Alabama Travel Council from the State General Fund the sum of One hundred thousand dollars (\$100,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:02 P.M.

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Act No. 90-746

H. 233—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Pea River Historical Society for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Pea River Historical Society from the State General Fund the sum of Twenty-Five thousand dollars (\$25,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:03 P.M.

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Act No. 90-747

H. 235—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Southern Museum of Flight for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Southern Museum of Flight from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:04 P.M.

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Act No. 90-748

H. 236—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Tri-Rivers Waterway Development Association for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Tri-Rivers Waterway Development Association from the State General Fund the sum of Fifty thousand dollars (\$50,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:05 P.M.

Act No. 90-749

H. 237—Rep. Harper

## AN ACT

To make an appropriation from the State General Fund to the W. C. Handy Property Board for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the W. C. Handy Property Board from the State General Fund the sum of Twenty-five thousand dollars (\$25,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:06 P.M.

Act No. 90-750

H.J.R. 605—Reps. Cosby, Thomas and Bryant

## HOUSE JOINT RESOLUTION

NAMING THE "SENATOR EARL GOODWIN AUDITORIUM" AT GEORGE C. WALLACE STATE COMMUNITY COLLEGE-SELMA.

WHEREAS, our friend and colleague, Earl Goodwin of Selma, Alabama, has served with great distinction for 14 years as a member of the Alabama Senate; and

WHEREAS, throughout his tenure, Senator Goodwin has worked tirelessly toward the well-being of his constituents and the entire State of Alabama, and his contributions have been of lasting benefit to all Alabamians; and

WHEREAS, Earl Goodwin also was instrumental in the establishment of the George C. Wallace State Community College in Selma and, since its inception, has maintained a keen interest in its progress

and has continued to vigorously support the growth and development of the institution; and

WHEREAS, not only did he work closely with President Charles Byrd on many programs during the schools' formative years, but has continued to help finance the Community College each year, has spoken to a graduating class, and was a primary fundraiser for the construction of the auditorium at Wallace Community College; and

WHEREAS, in recognition of Senator Goodwin's leadership and many contributions to his district and the State of Alabama, it is both appropriate and desirable that he be honored in a meaningful and lasting manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to Senator Earl Goodwin of Selma, Alabama, we hereby name and designate the auditorium at the George C. Wallace State Community College-Selma as the "Senator Earl Goodwin Auditorium," and do herein authorize the proper officials to erect and maintain appropriate signs and markers so designating said auditorium.

BE IT FURTHER RESOLVED, That in token of friendship, sincere admiration and esteem, a copy of this resolution shall be presented to the Honorable Earl Goodwin.

Approved May 3, 1990

Time: 6:07 P.M.

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Act No. 90-751

H. 520—Rep. Mathis

### AN ACT

To make an appropriation from the State General Fund to the Samson Historical Commission for the fiscal year ending September 30, 1991 and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Samson Historical Commission in Geneva County, Alabama the sum of Ten thousand dollars (\$10,000), out of the funds in the State General Fund for the fiscal year ending September 30, 1991.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It

is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:08 P.M.

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Act No. 90-752

H. 613—Rep. Flowers

### AN ACT

To make an appropriation from the state general fund to the Pike County Pioneer Museum for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to Pike County Pioneer Museum from the state general fund the sum of fifteen thousand dollars (\$15,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the director of finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 2.** This act shall become effective October 1, 1990, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 6:09 P.M.

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Act No. 90-753

H. 648—Rep. Mathis

### AN ACT

To make an appropriation from the State General Fund to the Slocomb Historical Society for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated to the Slocumb Historical Society from the State General Fund the sum of Fifteen thousand dollars (\$15,000).

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:10 P.M.

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Act No. 90-754

H. 699—Rep. Turner

### AN ACT

To appropriate twenty-five thousand dollars (\$25,000.00) from the state general fund to the Citronelle Historical Society for the state fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated the sum of twenty-five thousand dollars (\$25,000.00) from the state general fund to the Citronelle Historical Society for the state fiscal year ending September 30, 1991.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 6:11 P.M.

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Act No. 90-755

H. 346—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Dale County Historical Society for the fiscal year ending September 30, 1991 and to require an operations plan and audited financial statement prior to the release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Dale County Historical Society the sum of fifteen thousand dollars (\$15,000) out of the funds in the State General Fund for the fiscal year ending September 30, 1991.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:12 P.M.

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Act No. 90-756

H. 348—Rep. Harper

### AN ACT

To make an appropriation from the State General Fund to the Choctaw County Museum in Gilbertown and the Army Aviation Museum at Fort Rucker for the fiscal year ending September 30, 1991 and to require an operations plan and audited financial statement prior to the release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Army Aviation Museum at Fort Rucker the sum of twenty-five thousand dollars (\$25,000) out of the funds in the State General Fund for the fiscal year ending September 30, 1991.

**Section 2.** There is hereby appropriated to the Choctaw County Museum in Gilbertown, Alabama the sum of ten thousand dollars (\$10,000) out of the funds in the State General Fund for the fiscal year ending September 30, 1991.

**Section 3.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 4.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:14 P.M.

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Act No. 90-757

H. 191—Rep. Harper

**AN ACT**

To make an appropriation for the support and maintenance of the Talladega College for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of four hundred twenty-nine thousand thirty-four dollars (\$429,034), out of the funds in the Alabama Special Educational Trust Fund, to the Talladega College located at Talladega, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:15 P.M.

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Act No. 90-758

H. 192—Rep. Harper

**AN ACT**

To make an appropriation for the support and maintenance of the Marion Military Institute for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of four hundred fifty-nine

thousand six hundred seventy-eight dollars (\$459,678), out of the funds in the Alabama Special Educational Trust Fund, to the Marion Military Institute located at Marion, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:16 P.M.

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Act No. 90-759

H. 193—Rep. Harper

### AN ACT

To make an appropriation for the support and maintenance of the Lyman Ward Military Academy for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of two hundred fourteen thousand five hundred fifteen dollars (\$214,515), out of the funds in the Special Educational Trust Fund, to the Lyman Ward Military Academy located at Camp Hill, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:17 P.M.

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Act No. 90-760

H. 194—Rep. Harper

**AN ACT**

To make an appropriation for the support and maintenance of the Coosa Valley Medical Center School of Nursing for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of one hundred three thousand seven hundred four dollars (\$103,704), out of the funds in the Alabama Special Educational Trust Fund, to the Coosa Valley Medical Center School of Nursing located at Sylacauga, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:18 P.M.

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Act No. 90-761

H. 672—Rep. Harper

**AN ACT**

To make an appropriation from the State General Fund to the State 4-H Center in Columbiana, Alabama for the fiscal year ending September 30, 1991 for capital outlay purposes, and to require an operations plan and audited financial statement prior to release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the State 4-H Center in Columbiana, Alabama from the State General Fund the amount of One hundred thousand dollars (\$100,000) for the fiscal year ending September 30, 1991 for capital outlay purposes.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 6:19 P.M.

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Act No. 90-762

H. 189—Rep. Harper

### AN ACT

To make an appropriation for the support and maintenance of the Walker County Junior College for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** There is hereby appropriated for the fiscal year ending September 30, 1991 the sum of five hundred fifty-one thousand six hundred fourteen dollars (551,614), out of the funds in the Alabama Special Educational Trust Fund, to the Walker County Junior College located at Jasper, Alabama, to be used for the support and maintenance of said school.

**SECTION 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**SECTION 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:20 P.M.

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Act No. 90-763

H. 726—Rep. Blake

**AN ACT**

To make an appropriation from the State General Fund to the St. Clair County Historical Society for the fiscal year ending September 30, 1991 and to require an operations plan and audited financial statement prior to the release of any funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the St. Clair County Historical Society the sum of ten thousand dollars (\$10,000) out of the funds in the State General Fund for the fiscal year ending September 30, 1991.

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:21 P.M.

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Act No. 90-764

H. 181—Rep. Harper

**AN ACT**

To make appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State, for other functions of government, for interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**SECTION 1.** The monies in Section 2 are appropriated from the named funds for the 1990-91 fiscal year to the state agency indicated, as the amounts to be used to pay the expenditures of the

named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the total for all programs are shown by the source of funds. It is intended that only the named funds be appropriated to the agency concerned; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the need of an identified clientele, or group of recipients or beneficiaries.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on all bonded debt obligations of the State, and shall be expended only for such purposes.

(e) "Federal and Local Funds" shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

**SECTION 2.** There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial departments of the State, for other functions of government, for the principal and interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1991, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.



	Fund Sources Included In Appropriation Total		
	General Fund	Trust Funds	Appropriation Total
2A. LEGISLATIVE:			
1. EXAMINERS OF PUBLIC ACCOUNTS, DEPART- MENT OF:			
(a) Legislative Support-Audit Services Program .....			11,128,054
SOURCE OF FUNDS:			
(1) State General Fund .....	10,228,054		
(2) Federal Funds .....		900,000	
Total Department of Examiners of Public Accounts .....	10,228,054	900,000	11,128,054
2. LAW INSTITUTE, ALA- BAMA:			
(a) Support Of Other Educational Activities Program .....			398,959
SOURCE OF FUNDS:			
(1) State General Fund .....	398,959		
Total Alabama Law Institute .....	398,959		398,959
3. LEGISLATIVE COUNCIL:			
(a) Legislative Operations and Support Program .....			237,200
SOURCE OF FUNDS:			
(1) State General Fund .....	237,200		
Pursuant to Sections 29-6-1 et seq., Code of Alabama 1975.			
Total Legislative Council .....	237,200		237,200
4. LEGISLATIVE FISCAL OF- FICE:			
(a) Legislative Operations and Support Program (To include program review and evaluation) .....			1,075,508
SOURCE OF FUNDS:			
(1) State General Fund .....	1,075,508		

Total Legislative Fiscal Office .....	1,075,508	1,075,508
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5. LEGISLATIVE REFERENCE SERVICE:

(a) Legislative Operations and Support Program .....		1,373,274
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SOURCE OF FUNDS:

(1) State General Fund .....	1,373,274	
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Total Legislative Reference Service .....	1,373,274	1,373,274
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6. LEGISLATURE:

(a) Legislative Operations and Support Program .....		10,150,000
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It is the intent of the Legislature that (1) at least \$30,000 shall be allocated for the Senate Finance and Taxation Committee, \$30,000 shall be allocated for the Office of the Senate Pro Tempore and \$30,000 shall be allocated for the Senate Rules Committee, and (2) that at least \$90,000 shall be allocated for the Ways and Means Committee, the House Rules Committee and the Office of the Speaker of the House.

The appropriation to the Legislature shall be expended under the provisions set forth in Section 29-1-22, Code of Alabama 1975.

(b) Legislative Reapportionment, Estimated .....		350,000
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SOURCE OF FUNDS:

(1) State General Fund .....	10,500,000	
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Total Legislature .....	10,500,000	10,500,000
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7. LEGISLATURES, NATIONAL CONFERENCE OF STATE:

(a) Legislative Operations and Support Program .....		81,429
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**SOURCE OF FUNDS:**

(1) State General Fund .....	81,429	
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Total National Conference of State Legislatures .....	81,429	81,429
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**2B. JUDICIAL:****1. COURT OF CIVIL APPEALS:**

(a) Court Operations Program .....		1,310,322
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**SOURCE OF FUNDS:**

(1) State General Fund .....	1,310,322	
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Total Court of Civil Appeals .....	1,310,322	1,310,322
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**2. COURT OF CRIMINAL APPEALS:**

(a) Court Operations Program .....		2,132,253
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**SOURCE OF FUNDS:**

(1) State General Fund .....	2,132,253	
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Total Court of Criminal Appeals ..	2,132,253	2,132,253
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**3. JUDICIAL INQUIRY COMMISSION:**

(a) Administrative Services Program .....		125,594
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**SOURCE OF FUNDS:**

(1) State General Fund .....	125,594	
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Total Judicial Inquiry Commission .....	125,594	125,594
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**4. JUDICIAL RETIREMENT FUND:**

(a) Retirement Systems Program .....		1,229,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	1,229,000	
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Total Judicial Retirement Fund ...	1,229,000	1,229,000
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**5. SUPREME COURT:**

(a) Court Operations Program .....		5,216,549
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**SOURCE OF FUNDS:**

(1) State General Fund .....	5,216,549	
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Total Supreme Court .....	5,216,549	5,216,549
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## 6. UNIFIED JUDICIAL SYSTEM:

(Administrative Office of Courts)

(a) Court Operations Program .....	62,848,159
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(b) Administrative Services Program .....	3,804,483
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(c) DUI Referral Program .....	109,821
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(d) Alabama Model Court Program .....	64,750
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(e) Fringe Benefit Program, Estimated .....	300,000
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(f) Court Equipment and Court Security .....	1,120,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	67,642,463
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(2) State General Fund-Social Se- curity-County Judicial, Estimated .....	300,000
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(3) Clerks' and Registers' Super- numerary Fund .....	240,000
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(4) Federal and Local Funds .....	64,750
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Total Unified Judicial System .....	67,942,463	304,750	68,247,213
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## 2C. EXECUTIVE:

### 1. ACADEMY OF HONOR, ALABAMA:

(a) Historical Resources Manage- ment Program .....	2,534
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## SOURCE OF FUNDS:

(1) State General Fund .....	2,534
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As provided in Section 41-11-6,  
Code of Alabama 1975, and an  
additional amount.

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Total Alabama Academy of Honor .....	2,534	2,534
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2. ACCOUNTANCY, ALA-BAMA STATE BOARD OF PUBLIC:		
(a) Professional and Occupational Licensing and Regulation Program .....		393,610
SOURCE OF FUNDS:		
(1) Alabama State Board of Public Accountancy Fund .....	393,610	
As provided in Section 34-1-22, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Board of Public Accountancy, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.		
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Total Alabama State Board of Public Accountancy .....	393,610	393,610
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3. ADJUSTMENT, BOARD OF:		
(a) Special Services Program .....		422,400
SOURCE OF FUNDS:		
(1) State General Fund .....	12,000	
For the State General Fund Contribution to the total expenditure of \$750,000 pursuant to Section 41-9-73, Code of Alabama 1975.		
(2) State General Fund, Estimated	403,500	
For expenditures as provided in Section 31-3-2 and Section 36-30-2, Code of Alabama 1975.		
(3) State General Fund-Administrative Costs .....	6,900	
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Total Board of Adjustment .....	422,400		422,400
4. AERONAUTICS, DEPARTMENT OF:			
(a) Airport Development and Aeronautical Support Program .....			796,129
SOURCE OF FUNDS:			
(1) Airport Development Fund-Aviation Fuel Tax .....		776,599	
As provided by Section 4-2-42, Code of Alabama 1975.			
(2) Airport Development Fund-Federal Funds .....		19,530	
Total Department of Aeronautics		796,129	796,129
5. AGING, COMMISSION ON:			
(a) Planning and Advocacy for the Elderly Program .....			16,224,946
(b) Medicaid Waiver Services Program .....			8,289,311
(c) Capital Outlay .....			140,000
SOURCE OF FUNDS:			
(1) State General Fund .....	1,331,299		
(2) State General Fund-Medicaid Waiver .....	2,870,998		
(3) State General Fund-Capital Outlay .....	140,000		
(4) Federal and Local Funds .....		20,311,960	
Total Commission on Aging .....	4,342,297	20,311,960	24,654,257
The Commission on Aging shall contract with the existing Regional Planning Commissions or Councils of Local Governments and/or Area Agencies on Aging to provide services for one-third of the State's present and future client slots for the program known as the "Medicaid Waiver Services Program-Home and Community-Based Waiver for the Elderly and Disabled". The Commission on Aging shall not			

withdraw Area Agency on Aging designations or alter the funding relationships with existing Area Agencies on Aging and Regional Planning Development Commissions or Councils of Local Governments without the approval of the Board of Directors of the Alabama Commission on Aging and complying with all federal and state statutory and regulatory requirements.

6. AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION:

(a) Water Resource Development Program .....	2,324,926
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	2,149,926	
(2) Interest Income .....		175,000

As provided in Section 9-8A-4.1, Code of Alabama 1975.

Total Agricultural and Conservation Development Commission	2,149,926	175,000	2,324,926
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In addition to the above appropriation to the Agricultural and Conservation Development Commission, there is also hereby conditionally appropriated the sum of \$5,000,000 to be conditioned on the availability of funds in the State General Fund, the recommendation of the State Finance Director and the approval of the Governor. Such conditional appropriation shall be expended for soil erosion programs.

7. AGRICULTURAL AND INDUSTRIAL EXHIBIT COMMISSION, ALABAMA:

(a) Agricultural Development Services Program .....	50,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	50,000	
Total Alabama Agricultural and Industrial Exhibit Commission .....	50,000	50,000

## 8. AGRICULTURAL CENTER BOARD:

(a) Agricultural Development Services Program .....		859,506
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## SOURCE OF FUNDS:

(1) State General Fund .....	169,354		
For expense and awarding of prizes for fairs as provided in Section 2-7-21, Code of Alabama 1975 and other livestock shows and expositions and other activities.			
(2) State General Fund-Operations .....	132,427		
(3) State General Fund-Livestock Coliseum .....	212,725		
(4) Livestock Coliseum Fund .....		345,000	
Total Agricultural Center Board ..	514,506	345,000	859,506

## 9. AGRICULTURE AND INDUSTRIES, DEPARTMENT OF:

(a) Administrative Services Program .....		2,151,769
(b) Agricultural Inspection Services Program .....		10,845,848

Of the above appropriation, \$50,000 shall be transferred to the Alabama Aquaculture Center located in Gadsden, Alabama.

(c) Laboratory Analysis and Disease Control Program .....		4,025,676
(d) Agricultural Development Services Program .....		1,717,814

## SOURCE OF FUNDS:

(1) State General Fund .....	8,403,097	
(2) Federal and Local Funds .....		2,407,010



## (3) Shipping Point Inspection

Fund .....	3,915,000
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Pursuant to Sections 2-9-20 et seq., Code of Alabama 1975. All fees and charges collected by the Commissioner of Agriculture and Industries and deposited into said fund, and such appropriation to the Department of Agriculture and Industries shall include all fees and charges collected and deposited therein for Shipping Point Inspection grading and classification services for agricultural products including services furnished for weighing and issuing weight certificates to be used for the sale of agricultural commodities.

(4) Agricultural Fund .....	4,016,000
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Total Department of Agriculture and Industries .....	8,403,097	10,338,010	18,741,107
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## 10. ALABAMA TRUST FUND BOARD:

(a) Administrative Program .....	35,886
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## SOURCE OF FUNDS:

(1) State General Fund .....	35,886
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Total Alabama Trust Fund Board .....	35,886	35,886
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## 11. ALCOHOLIC BEVERAGE CONTROL BOARD, ALABAMA:

(a) Alcoholic Beverage Management Program .....	27,640,400
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(b) Enforcement Program .....	7,978,845
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The level and type of services to be provided by the Alcoholic Beverage Control Board for the Enforcement Program in fiscal year 1990-91 shall not be reduced below the level of services provided

in this program in fiscal year  
1989-90.

(c) Administrative Services  
Program ..... 2,584,500

The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the Department of Mental Health of \$1,000,000, a transfer to the Department of Public Safety of \$2,000,000, and a transfer to the State General Fund of \$596,000. The above transfers shall be made from the operating funds of the Alcoholic Beverage Control Board and shall not affect any distribution of revenue generated from the sale of alcoholic beverages.

#### SOURCE OF FUNDS:

(1) ABC Board Fund ..... 38,203,745

In addition to the above appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board. There is further appropriated to the Alabama Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized, such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by

this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out, an amount comparable to that expended during the prior fiscal year for beer and license tax supervision within counties or municipalities of similar size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage Control Board .....	38,203,745	38,203,745
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## 12. ARCHITECTS, BOARD FOR REGISTRATION OF:

(a) Professional and Occupational Licensing and Regulation Program .....	279,850
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### SOURCE OF FUNDS:

(1) Fund of the Board for Registration of Architects .....	279,850
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As provided in Section 34-2-41, Code of Alabama 1975.

Total Board for Registration of Architects .....	279,850	279,850
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## 13. ARCHIVES AND HISTORY, DEPARTMENT OF:

(a) Historical Resources Management Program .....	2,762,041
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### SOURCE OF FUNDS:

(1) State General Fund .....	2,566,099
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(2) Federal and Local Funds .....	195,942		
Total Department of Archives and History .....	2,566,099	195,942	2,762,041
14. ATTORNEY GENERAL, OFFICE OF THE:			
(a) Legal Advice and Legal Services Program .....			7,181,643
(b) Fair Marketing Practices Program .....			598,284
SOURCE OF FUNDS:			
(1) State General Fund .....	6,116,835		
(2) State General Fund-Drug Program .....	125,000		
(3) State General Fund-Consumer Protection .....	588,284		
(4) Federal and Local Funds .....		949,808	
Total Office of the Attorney General .....	6,830,119	949,808	7,779,927
15. AUCTIONEERS, ALABAMA STATE BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			90,049
SOURCE OF FUNDS:			
(1) State Board of Auctioneers Fund .....		90,049	
Total Alabama State Board of Auctioneers .....		90,049	90,049
16. AUDITOR, STATE:			
(a) Fiscal Management Program .....			857,107
SOURCE OF FUNDS:			
(1) State General Fund .....	857,107		
Total State Auditor .....	857,107		857,107
17. BANKING DEPARTMENT, STATE:			
(a) Charter, License and Regulate Financial Institutions Program .....			3,327,132
SOURCE OF FUNDS:			
(1) Banking Assessment Fees .....		2,932,632	
As provided in Section 5-2A-20, Code of Alabama 1975.			

(2) Loan Examination Fund .....	394,500	
As provided in Section 5-2A-24, Section 5-16-38.1, and Section 5-18-5, Code of Alabama 1975.		
Total State Banking Department	3,327,132	3,327,132
18. BAR ASSOCIATION, ALA- BAMA STATE:		
(a) Professional and Occupational Licensing and Regulation Program .....		1,551,772
SOURCE OF FUNDS:		
(1) State Bar Association Fund ...	1,123,063	
As provided in Section 34-3-4 and Section 34-3-44, Code of Ala- bama 1975.		
(2) Federal and Local Funds .....	428,709	
As provided in Sections 34-3-44, 34-3-17 and 34-3-18, Code of Alabama 1975.		
Total Alabama State Bar Association .....	1,551,772	1,551,772
19. BEAR CREEK DEVELOP- MENT AUTHORITY:		
(a) Water Resource Development Program .....		54,535
SOURCE OF FUNDS:		
(1) State General Fund .....	54,535	
Total Bear Creek Development Authority .....	54,535	54,535
20. BEAUTIFICATION BOARD OF THE STATE OF ALA- BAMA:		
(a) Special Services Program .....		16,000
SOURCE OF FUNDS:		
(1) State General Fund .....	16,000	

Total Beautification Board of the State of Alabama .....	16,000		16,000
21. BUILDING COMMISSION, STATE:			
(a) Special Services Program .....			1,527,748
SOURCE OF FUNDS:			
(1) State General Fund .....	858,762		
(2) Federal and Local Funds .....		668,986	
Total State Building Commission	858,762	668,986	1,527,748
22. CAHAWBA ADVISORY COMMITTEE:			
(a) Historical Resources Manage- ment Program .....			9,550
(b) Capital Outlay .....			10,000
SOURCE OF FUNDS:			
(1) State General Fund .....	9,550		
(2) State General Fund-Capital Outlay .....	10,000		
Total Cahawba Advisory Committee .....	19,550		19,550
23. CHILD ABUSE AND NE- GLECT PREVENTION BOARD:			
(a) Social Services Program .....			630,000
In accordance with Sections 26-16- 1 et seq., Code of Alabama 1975.			
SOURCE OF FUNDS:			
(1) State General Fund-Transfer	400,000		
(2) Children's Trust Fund, Estimated .....		230,000	
Total Child Abuse and Neglect Prevention Board .....	400,000	230,000	630,000
24. CHIROPRACTIC EXAM- INERS, ALABAMA STATE BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			92,150
SOURCE OF FUNDS:			
(1) Alabama State Board of Chi- ropractic Examiner's Fund .....	92,150		

As provided in Section 34-24-143,  
Code of Alabama 1975.

Total Alabama State Board of Chi- ropractic Examiners .....	92,150	92,150
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25. CHOCCOLOCCO CREEK  
WATERSHED CONSER-  
VANCY DISTRICT:

(a) Water Development Program		10,000
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SOURCE OF FUNDS:

(1) State General Fund .....	10,000	
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Total Choccolocco Creek Wa- tershed Conservancy District ....	10,000	10,000
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26. CONSERVATION AND  
NATURAL RESOURCES,  
DEPARTMENT OF:

(a) State Land Management Program .....		951,000
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(b) Outdoor Recreation Sites and Services Program .....		28,099,910
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Of the above appropriation to the  
Outdoor Recreation Sites and  
Services Program, \$250,000 shall  
be expended at Frank Jackson  
State Park and \$50,000 shall be  
expended at the Robert Fowler  
Park in the City of Geneva for  
capital outlay and \$25,000 shall  
be expended at Monte Sano  
State Park for the development  
and maintenance of outdoor  
trails and \$50,000 shall be ex-  
pended at the Cullman Park and  
Recreation Board.

(c) Marine Police Program .....		2,895,867
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(d) Wildlife Game and Fish Program .....		18,581,510
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(e) Marine Resources Program ....		2,214,000
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(f) Administrative Services Program .....		3,373,679
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The appropriation to the Depart-  
ment of Conservation and Nat-  
ural Resources shall include

Alabama's pro rata share of the Gulf States Marine Fisheries Commission operation expenses. The appropriation to the Department of Conservation and Natural Resources includes funds for the maintenance, staff and repair of the Governor's official beach mansion.

**SOURCE OF FUNDS:**

(1) State General Fund-Transfer	1,591,006
(2) Game and Fish Fund-Licenses, Fines, Fees, Interest Income, and Other Departmental Receipts .....	12,472,630
(3) Game and Fish Fund-Federal and Local Funds .....	6,108,880
(4) State Lands Fund .....	951,000
The funds hereinabove appropriated from the State Lands Fund includes funds for analyzing, cataloging and monitoring mineral reserves and the development thereof on State lands including water and offshore areas.	
(5) Marine Resources Fund-Licenses, Taxes, Fines and Other Departmental Receipts .....	1,314,000
(6) Marine Resources Fund-Federal and Local Funds .....	900,000

In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island is hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources



Division programs or projects  
which he deems appropriate.

(7) Marine Police Fund-Licenses, Fines, Taxes, and Other Depart- mental Receipts .....	2,370,867
(8) Marine Police Fund-Federal and Local Funds .....	525,000
(9) State Parks Fund .....	400,000
(10) Parks Revolving Fund .....	22,108,904
(11) State Parks Fund-Cigarette Tax .....	4,000,000
(12) Administrative Funds .....	3,373,679

The funds hereinabove appropri-  
ated shall be payable as provided  
in Sections 9-2-1 et seq., Code  
of Alabama 1975.

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Total Department of Conservation and Natural Resources .....	1,591,006	54,524,960	56,115,966
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## 27. CONTRACTORS, STATE LICENSING BOARD FOR GENERAL:

(a) Professional and Occupational Licensing and Regulation Program .....	468,578
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## SOURCE OF FUNDS:

(1) State Licensing Board for General Contractors Fund .....	468,578
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Pursuant to Section 34-8-25, Code  
of Alabama 1975. In addition to  
the amounts appropriated here-  
inabove to the State Licensing  
Board for General Contractors,  
there is hereby appropriated such  
an amount as may be necessary  
to pay the refund of any appli-  
cation for license which may  
have been rejected by the Board  
or application withdrawn by re-  
quest of applicant.

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Total State Licensing Board for General Contractors .....	468,578	468,578
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28. CORRECTIONS, DEPARTMENT OF:

(a) Administrative Services and Logistical Support Program .....	11,011,596
(b) Institutional Services Corrections Program .....	128,116,423
(c) Correctional Agricultural and Industries Program .....	20,468,538

The Department of Corrections shall not utilize any portion of its State General Fund appropriation to support the Correctional Industries Program, for either the agribusiness element or the industries element.

SOURCE OF FUNDS:

(1) State General Fund .....	134,128,019
(2) Department of Corrections Fund .....	25,468,538

The Commissioner of the Department of Corrections is authorized to utilize funds herein appropriated as matching contributions, where required and appropriate, to generate additional funds which would effectively increase the appropriations for the Department of Corrections. Any such grant funds so generated and in direct support of the Department of Corrections' operations are also hereby appropriated.

Total Department of Corrections	134,128,019	25,468,538	159,596,557
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In addition to the above appropriation to the Department of Corrections, there is also hereby conditionally appropriated the sum of \$3,000,000 to be conditioned on the availability of funds in the State General Fund,

the recommendation of the State Finance Director and the approval of the Governor.

29. COSMETOLOGY, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	742,000
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SOURCE OF FUNDS:

(1) Alabama Board of Cosmetology Fund .....	742,000
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As provided in Section 34-7-42, Code of Alabama 1975.

Total Alabama Board of Cosmetology .....	742,000	742,000
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30. COUNSELING, ALABAMA BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Program .....	87,250
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners in Counseling Fund .....	87,250
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As provided in Section 34-8A-6, Code of Alabama 1975.

Total Alabama Board of Examiners in Counseling .....	87,250	87,250
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31. CREDIT UNION ADMINISTRATION, ALABAMA:

(a) Charter, License and Regulate Financial Institutions Program .....	514,228
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SOURCE OF FUNDS:

(1) Alabama Credit Union Administration Fund .....	514,228
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As provided in Section 5-17-7, Code of Alabama 1975.

Total Alabama Credit Union Administration .....	514,228	514,228
32. CRIME VICTIMS COMPENSATION COMMISSION, ALABAMA:		
(a) Special Services Program, Estimated .....		781,350
SOURCE OF FUNDS:		
(1) Alabama Crime Victims Compensation Commission Fund, Estimated .....	781,350	
To be expended in accordance with Sections 15-23-1 et seq., Code of Alabama 1975.		
Total Alabama Crime Victims Compensation Commission .....	781,350	781,350
33. CRIMINAL JUSTICE INFORMATION CENTER, ALABAMA:		
(a) Criminal Justice Information Services Program .....		4,239,887
SOURCE OF FUNDS:		
(1) State General Fund .....	2,929,287	
(2) Federal and Local Funds .....	1,310,600	
Total Alabama Criminal Justice Information Center .....	2,929,287	1,310,600
34. DEVELOPMENT OFFICE, ALABAMA:		
(a) Promotional Development Program-Alabama Film Commission .....		305,000
(b) Administrative Services Program .....		204,512
(c) Industrial Development Program-Alabama Development Office .....		4,381,227
SOURCE OF FUNDS:		
(1) State General Fund-Alabama Development Office .....	4,281,227	

(2) State General Fund-Office of Minority Business .....	109,512		
(3) State General Fund-Small Business Office of Advocacy .....	95,000		
(4) State General Fund-Alabama Film Commission .....	305,000		
(5) Departmental Receipts .....		100,000	
Total Alabama Development Office .....	4,790,739	100,000	4,890,739

35. DIETETICS/NUTRITION  
PRACTICE, ALABAMA  
BOARD OF EXAMINERS  
FOR:

(a) Professional and Occupational Licensing and Regulation Program .....			60,000
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SOURCE OF FUNDS:

(1) State Board of Dietetics/Nu- trition Fund .....		60,000	
Total Alabama State Board of Ex- aminers for Dietetics/Nutrition Practice .....		60,000	60,000

36. DISTRICT ATTORNEYS:

(a) Court Operations Program .....			14,130,041
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The proposed spending plan in-  
cluded in the above total is as  
follows:

Salaries of District  
Attorneys .....2,580,095

For the use of the elected Assistant  
District Attorney of the Besse-  
mer Division of the 10th Judi-  
cial Circuit .....151,104

Salaries and expenses of Supernu-  
merary District  
Attorneys .....1,053,600

For use in the District Attorney's  
Office of the following Judicial  
Circuits:

1st Judicial Circuit .....132,759

2nd Judicial Circuit .....	148,126
3rd Judicial Circuit .....	254,594
4th Judicial Circuit .....	460,477
5th Judicial Circuit .....	422,927
6th Judicial Circuit .....	328,680
7th Judicial Circuit .....	274,374
8th Judicial Circuit .....	198,875
9th Judicial Circuit .....	187,632
10th Judicial Circuit .....	494,556
11th Judicial Circuit .....	143,373
12th Judicial Circuit .....	376,203
13th Judicial Circuit .....	541,297
14th Judicial Circuit .....	192,446
15th Judicial Circuit .....	818,331
16th Judicial Circuit .....	281,315
17th Judicial Circuit .....	184,519
18th Judicial Circuit .....	349,453
19th Judicial Circuit .....	216,481
20th Judicial Circuit .....	249,993
21st Judicial Circuit .....	168,946
22nd Judicial Circuit .....	173,343
23rd Judicial Circuit .....	407,420
24th Judicial Circuit .....	140,051
25th Judicial Circuit .....	134,392
26th Judicial Circuit .....	236,973
27th Judicial Circuit .....	218,663
28th Judicial Circuit .....	285,239
29th Judicial Circuit .....	281,080
30th Judicial Circuit .....	272,902
31st Judicial Circuit .....	149,642
32nd Judicial Circuit .....	217,133
33rd Judicial Circuit .....	175,748
34th Judicial Circuit .....	121,978
35th Judicial Circuit .....	115,291
36th Judicial Circuit .....	117,418
37th Judicial Circuit .....	232,297
38th Judicial Circuit .....	188,708

39th Judicial Circuit .....179,925  
 Travel Expenses of District  
   Attorneys ..... 75,000  
 Investigators Subsistence-Section  
   36-21-2, Code of Alabama  
   1975 .....196,682

SOURCE OF FUNDS:

(1) State General Fund .....	14,130,041	
Total District Attorneys .....	14,130,041	14,130,041

37. ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA DEPARTMENT OF:

(a) Administrative Support Services Program .....	6,999,001
(b) Planning Program .....	35,837,000

Of the above appropriation, \$300,000 shall be spent for the Regional Planning Commissions and \$50,000 shall be expended for the Alabama Council of Economic Education.

(c) Special Services Program .....	17,800,000
(d) Skills Enhancement and Employment Opportunities Program .....	59,722,175
(e) Energy Management Program .....	7,706,714
(f) Traffic Control and Accident Prevention Program .....	2,455,337
(g) Law Enforcement Planning and Development Program .....	5,973,460
(h) Surplus Property Program .....	1,440,914

SOURCE OF FUNDS:

(1) State General Fund .....	8,621,681	
(2) Federal and Local Funds .....		120,123,005
(3) Administrative Transfers and Other Departmental Receipts ...		7,799,001
(4) Administrative Transfers from Federal Donated Surplus Property Sales .....		785,914

(5) Administrative Transfers from State-Owned Surplus Property Sales .....	605,000		
Total Alabama Department of Economic and Community Affairs .....	8,621,681	129,312,920	137,934,601
38. EDUCATION, DEPART- MENT OF:			
(a) Direct Client Services for the Handicapped-Homebound Program .....			2,000,000
(b) Projects-Vocational Rehabili- tation/Crippled Children Serv- ices Program-Eye Injury Register .....			50,000
SOURCE OF FUNDS:			
(1) State General Fund .....	2,050,000		
Total Department of Education ...	2,050,000		2,050,000
39. ELECTRICAL CONTRAC- TORS, BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			94,000
SOURCE OF FUNDS:			
(1) Electrical Contractors Board Fees .....		94,000	
As provided in Section 34-36-17, Code of Alabama 1975.			
Total Board of Electrical Contractors .....		94,000	94,000
40. ELK RIVER DEVELOP- MENT AGENCY:			
(a) Water Resource Development Program .....			4,265
SOURCE OF FUNDS:			
(1) State General Fund .....	4,265		



Total Elk River Development Agency .....	4,265	4,265
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#### 41. EMERGENCY MANAGEMENT AGENCY:

(a) Readiness and Recovery Program .....		3,364,804
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(b) Transfer to County Emergency Management Agencies ....		350,000
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The above appropriation of \$350,000 is to be in addition to the regular allocations to county emergency management agencies.

(c) City of Huntsville-Doppler Radar .....		125,000
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#### SOURCE OF FUNDS:

(1) State General Fund .....	1,221,760	
(2) Federal and Local Funds .....		2,618,044

Total Emergency Management Agency .....	1,221,760	2,618,044	3,839,804
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#### 42. ENERGY BOARD, SOUTHERN STATES:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geological Research and Topographic Mapping Program .....		27,149
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#### SOURCE OF FUNDS:

(1) State General Fund .....	27,149	
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Total Southern States Energy Board .....	27,149	27,149
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#### 43. ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL:

(a) Professional and Occupational Licensing and Regulation Program .....		455,000
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#### SOURCE OF FUNDS:

(1) Professional Engineers Fund	455,000	
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As provided in Section 34-11-36,  
Code of Alabama 1975.

Total State Board of Registration  
for Professional Engineers and  
Land Surveyors .....

455,000 455,000

44. ENVIRONMENTAL MAN-  
AGEMENT, DEPARTMENT  
OF:

(a) Environmental Management  
Program .....

53,773,220

Of the above appropriation the sum  
of \$20,000 shall be used for a  
water quality study of Porters-  
ville Bay. Said study shall be  
done by department staff or  
through a contract. The depart-  
ment may not assess charges of  
any type to NPDES permit  
holders to offset the cost of said  
study.

SOURCE OF FUNDS:

(1) State General Fund-Transfer 5,445,110

(2) State General Fund-Transfer  
to Water Pollution Control  
Authority ..... 2,400,000

(3) State General Fund-Transfer  
to Hazardous Substance Cleanup  
Fund ..... 50,000

(4) Environmental Management  
Fines and Fees ..... 4,409,565

As provided in Section 22-22A-11,  
Code of Alabama 1975.

(5) Federal and Local Funds ..... 10,468,545

(6) Federal Match-Water Pollu-  
tion Control Authority ..... 26,600,000

(7) Transfer from Underground  
Storage Tank Trust Fund ..... 400,000

As provided in Section 22-35-9,  
Code of Alabama 1975.

(8) Underground Storage Tank  
Trust Fund Fees ..... 4,000,000

As provided in Section 22-35-5,  
Code of Alabama 1975.

Total Department of Environmental Management .....	7,895,110	45,878,110	53,773,220
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In addition to the above appropriation to the Department of Environmental Management, there is hereby appropriated \$1,800,000 from the State General Fund for the Water Pollution Control Authority to be conditioned on the availability of funds in the State General Fund and upon the majority approval of the Chairman of the Senate Committee on Finance and Taxation, the Chairman of the House Committee on Ways and Means and the Director of Finance.

45. ETHICS COMMISSION,  
ALABAMA:

(a) Regulation of Public Officials and Employees Program .....	407,030
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SOURCE OF FUNDS:

(1) State General Fund .....	407,030
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Total Alabama Ethics Commission .....	407,030	407,030
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46. FARM CRISIS AND TRANSITION PROGRAM:

(a) Agricultural Development Services Program .....	110,082
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SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	110,082
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Total Farm Crisis and Transition Program .....	110,082	110,082
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47. FARMERS' MARKET AUTHORITY:

(a) Agricultural Development Services Program .....	195,388
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(b) Capital Outlay .....	310,000
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## SOURCE OF FUNDS:

(1) State General Fund-Administration .....	97,332		
(2) State General Fund-Capital Outlay .....	310,000		
(3) Farmers' Market Authority Administration-Transfer from Capital Outlay Account .....		46,528	
(4) Farmers' Market Authority Fund-Revenue and Capital Outlay Account .....		51,528	
Total Farmers' Market Authority .....	407,332	98,056	505,388

## 48. FINANCE, DEPARTMENT OF:

(a) Fiscal Management Program .....			4,479,734
(b) Administrative Support Services Program .....			4,665,829

## SOURCE OF FUNDS:

(1) State General Fund .....	9,095,563		
(2) Miscellaneous Funds .....		50,000	
Total Department of Finance .....	9,095,563	50,000	9,145,563

## 49. FINANCE, DEPARTMENT OF-AIR TRANSPORTATION:

(a) Administrative Support Services Program .....			1,886,148
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## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	1,221,265		
(2) Departmental Receipts, Estimated .....		664,883	
Total Department of Finance-Air Transportation .....	1,221,265	664,883	1,886,148

## 50. FINANCE, DEPARTMENT OF-ALABAMA BUILDING AUTHORITY:

(a) Administrative Support Services Program, Estimated .....			898,409
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## SOURCE OF FUNDS:

(1) Alabama Building Authority Operating Fund .....	898,409	
Total Department of Finance-Ala- bama Building Authority .....	898,409	898,409

51. FINANCE, DEPARTMENT  
OF-ALABAMA BUILDING  
FINANCE AUTHORITY:

(a) Administrative Support Serv- ices Program, Estimated .....	1,267,200	
(b) Transfer to State General Fund .....	500,000	

Any law to the contrary notwith-  
standing, the Department of Fi-  
nance-Alabama Building  
Finance Authority shall transfer  
\$500,000 from the Alabama  
Building Finance Authority Op-  
erating Fund to the State Gen-  
eral Fund.

## SOURCE OF FUNDS:

(1) Alabama Building Finance Authority Operating Fund .....	1,767,200	
Total Department of Finance-Ala- bama Building Finance Authority .....	1,767,200	1,767,200

52. FINANCE, DEPARTMENT  
OF-CAPITOL COMPLEX  
MAINTENANCE AND RE-  
PAIR:

(a) Administrative Support Serv- ices Program, Estimated .....	9,442,497	
(b) Transfer to State General Fund .....	2,000,000	

Any law to the contrary notwith-  
standing, the Department of  
Finance-Capitol Complex  
Maintenance and Repair shall  
transfer \$2,000,000 from the  
Capitol Complex Maintenance  
and Repair Operating Fund to  
the State General Fund.

## SOURCE OF FUNDS:

(1) Capitol Complex Revolving Fund .....	11,442,497	
Total Department of Finance-Capitol Complex Maintenance and Repair .....	11,442,497	11,442,497

The above appropriation includes funds for maintenance, repair and lease payments on the new Gordon Persons Building.

## 53. FINANCE, DEPARTMENT OF-DATA CENTER REVOLVING FUND:

(a) Administrative Support Services Program, Estimated .....	22,869,472	
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## SOURCE OF FUNDS:

(1) Data Center Revolving Fund .....	22,869,472	
Total Department of Finance-Data Center Revolving Fund .....	22,869,472	22,869,472

## 54. FINANCE, DEPARTMENT OF-STATE INSURANCE FUND:

(a) Administrative Support Services Program .....	767,496	
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## SOURCE OF FUNDS:

(1) State Insurance Fund-Admin. ....	767,496	
As provided in Sections 41-15-1 et seq., Code of Alabama 1975.		
Total Department of Finance-State Insurance Fund .....	767,496	767,496

## 55. FINANCE, DEPARTMENT OF-CENTRAL MAIL AND SUPPLY:

(a) Administrative Support Services Program .....	5,837,694	
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## SOURCE OF FUNDS:

(1) Mail and Supply Revolving Fund .....	5,837,694	
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Total Department of Finance-Central Mail and Supply .....	5,837,694	5,837,694
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56. FINANCE, DEPARTMENT OF-MOTOR POOL:

(a) Administrative Support Services Program, Estimated .....		1,949,899
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SOURCE OF FUNDS:

(1) Motor Pool Revolving Fund ..	1,949,899	
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Total Department of Finance-Motor Pool .....	1,949,899	1,949,899
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57. FINANCE, DEPARTMENT OF-PRINTING AND PUBLICATIONS:

(a) Administrative Support Services Program .....		5,251,291
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(b) Transfer to State General Fund .....		1,700,000
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Any law to the contrary notwithstanding, the Department of Finance-Printing and Publications shall transfer \$1,700,000 from the Printing and Publications Revolving Fund to the State General Fund.

SOURCE OF FUNDS:

(1) Printing and Publications Revolving Fund .....	6,951,291	
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Total Department of Finance-Printing and Publications .....	6,951,291	6,951,291
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58. FINANCE, DEPARTMENT OF-TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program .....		11,702,668
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,812,000	
(2) Telephone Revolving Fund, Est. ....	9,890,668	

Total Department of Finance- Telephone Revolving Fund .....	1,812,000	9,890,668	11,702,668
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59. FOREIGN TRADE RELATIONS COMMISSION:			
(a) Special Services Program .....			102,205
SOURCE OF FUNDS:			
(1) State General Fund .....	102,205		
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Total Foreign Trade Relations Commission .....	102,205		102,205
<hr/>			
60. FORENSIC SCIENCES, DEPARTMENT OF:			
(a) Forensic Science Services Program .....			6,923,689
SOURCE OF FUNDS:			
(1) State General Fund .....	6,511,710		
(2) Federal and Local Funds .....		411,979	
<hr/>			
Total Department of Forensic Sciences .....	6,511,710	411,979	6,923,689
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61. FORESTERS, ALABAMA STATE BOARD OF REGISTRATION FOR:			
(a) Professional and Occupational Licensing and Regulation Program .....			35,000
SOURCE OF FUNDS:			
(1) Professional Foresters Fund ...		35,000	
As provided in Section 34-12-36, Code of Alabama 1975.			
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Total Alabama State Board of Registration for Foresters .....		35,000	35,000
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62. FORESTRY COMMISSION, ALABAMA:			
(a) Forest Resources Protection and Development Program .....			24,706,624
SOURCE OF FUNDS:			
(1) State General Fund-Transfer	13,406,624		
(2) Federal and Local Funds .....		3,000,000	



(3) Forestry Commission Fund ....	7,500,000		
(4) County Tobacco Tax Fund ....	800,000		
<hr/>			
Total Alabama Forestry Commission .....	13,406,624	11,300,000	24,706,624

Of the above appropriation, \$2,668,000 shall be used for rural and community fire protection. Of the above appropriation, \$500,000 shall be used for forestry research, marketing, management and environmental improvement grants. In addition to the above appropriation to the Alabama Forestry Commission, there is hereby conditionally appropriated for capital outlay from the Alabama Forestry Commission Fund the net proceeds from the sale of certain present property where the Birmingham District Headquarters is located in Jefferson County. The proceeds from said sale shall be covered into the Alabama Forestry Commission Fund. The above conditional appropriation shall be used to purchase land, building(s), and/or construction of building(s) in order to relocate the Birmingham District Headquarters. This conditional appropriation shall become absolute when said sale is concluded, recommended by the Finance Director and approved by the Governor.

#### 63. FUNERAL SERVICE, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	145,000
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#### SOURCE OF FUNDS:

(1) Alabama Funeral Directors and Embalmers Fund .....	145,000
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As provided in Section 34-13-23,  
Code of Alabama 1975.

Total Alabama Board of Funeral Service .....	145,000	145,000
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**64. GEOLOGICAL SURVEY:**

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program .....		3,166,456
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**SOURCE OF FUNDS:**

(1) State General Fund .....	2,395,184		
(2) Federal and Local Funds .....		771,272	
Total Geological Survey .....	2,395,184	771,272	3,166,456

In addition to the above appropriation to the Geological survey, there is hereby appropriated \$125,000 from the State General Fund to be conditioned on the availability of funds in the State General Fund, the recommendation of the State Finance Director and the approval of the Governor.

**65. GORGAS MEMORIAL BOARD:**

(a) Historical Resources Management Program .....		5,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	5,000
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As provided in Section 41-9-220,  
Code of Alabama 1975, and an  
additional amount.

Total Gorgas Memorial Board .....	5,000	5,000
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**66. GOVERNOR'S CONTINGENCY FUND:**

(a) Executive Direction Program .....	1,117,028
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**SOURCE OF FUNDS:**

(1) State General Fund .....	1,117,028
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Total Governor's Contingency Fund .....	1,117,028	1,117,028
67. GOVERNOR'S MANSION ADVISORY BOARD:		
(a) Historical Resources Management Program .....		9,073
SOURCE OF FUNDS:		
(1) State General Fund .....	9,073	
Total Governor's Mansion Advisory Board .....	9,073	9,073
68. GOVERNOR'S MANSION:		
(a) Executive Direction Program .....		191,130
SOURCE OF FUNDS:		
(1) State General Fund .....	191,130	
Total Governor's Mansion .....	191,130	191,130
69. GOVERNOR'S OFFICE:		
(a) Executive Direction Program .....		1,660,369
SOURCE OF FUNDS:		
(1) State General Fund .....	1,660,369	
Total Governor's Office .....	1,660,369	1,660,369
70. GOVERNOR'S OFFICE ON VOLUNTEERISM:		
(a) Executive Direction Program .....		84,323
SOURCE OF FUNDS:		
(1) State General Fund .....	84,323	
Total Governor's Office on Volunteerism .....	84,323	84,323
71. HEALTH, DEPARTMENT OF PUBLIC:		
(a) Personal Health Improvement Program .....		86,027,760
(b) Health Support Services Program .....		60,814,027
Of the amount appropriated to support local health department services, \$5,000,000 shall be used		

to provide a minimum staff in each of the 67 counties, and the remaining shall be allocated to the counties on the basis of need and a match formula to be determined by the Department.

(c) Administrative Services	
Program .....	10,711,935

**SOURCE OF FUNDS:**

(1) State General Fund .....	28,480,182		
(2) Cigarette Tax-\$0.01 and \$0.02 .....	4,000,000		
As provided in Section 40-25-2 and Section 40-25-23, Code of Ala- bama 1975.			
(3) Vital Statistics Fund .....		1,196,306	
(4) Hospital Licensing Fund .....		437,577	
(5) Emergency Medical Services Fund .....		50,000	
As provided in Section 22-18-4, Code of Alabama 1975.			
(6) Local Health Departments .....		36,160,982	
(7) Nuclear Monitoring Fund .....		134,000	
(8) Radiation Safety Fund .....		140,000	
(9) Miscellaneous Funds .....		12,427,855	
(10) Federal Funds .....		74,526,820	
<hr/>			
Total Department of Public Health .....	28,480,182	129,073,540	157,553,722

Of the above appropriation to the Department of Public Health, at least \$2,000,000 shall be spent on perinatal projects. The Department of Public Health will reimburse to the Alabama Medicaid Agency the state match necessary to cover increased revenues for services as a result of fee increases. The Department of Public Health will be responsible to the Alabama Medicaid Agency for any disallowance of Public Health Department costs

as a result of federal or state audit.

In addition to the above appropriation, there is hereby conditionally appropriated \$1,300,000 from the State General Fund to the Department of Public Health for the possible reduction in cigarette tax revenue due to the issuance of Mental Health bonds. These funds are conditioned upon the availability of funds in the State General Fund, the determination of a demonstrated need, recommendation by the Finance Director, and approval by the Governor.

In addition to the above appropriation to the Department of Public Health, there is also hereby conditionally appropriated the sum of \$1,000,000 for a Rural Water System Grant Program to be conditioned on the availability of funds in the State General Fund and upon the majority approval of the Chairman of the Senate Committee on Finance and Taxation, the Chairman of the House Committee on Ways and Means and the Director of Finance.

## 72. HEALTH PLANNING AGENCY, STATE:

(a) Health Planning Development and Regulation Program .....	769,486
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### SOURCE OF FUNDS:

(1) State General Fund .....	319,486	
(2) Certificate of Need Fees .....		400,000
(3) Departmental Receipts .....		50,000
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Total State Health Planning Agency .....	319,486	450,000	769,486
73. HEARING AID DEALERS, ALABAMA BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			32,952
SOURCE OF FUNDS:			
(1) State Board of Health-Hear- ing Aid Fund .....		32,952	
As provided in Section 34-14-33, Code of Alabama 1975.			
Total Alabama Board of Hearing Aid Dealers .....		32,952	32,952
74. HEATING AND AIR CON- DITIONING CONTRAC- TORS, BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			198,800
SOURCE OF FUNDS:			
(1) Heating and Air Conditioning Contractors Fund .....		198,800	
Total Board of Heating and Air Conditioning Contractors .....		198,800	198,800
75. HERITAGE TRUST FUND, ALABAMA:			
(a) Fiscal Management Program .....			20,000
SOURCE OF FUNDS:			
(1) Heritage Trust Income .....		20,000	
Total Alabama Heritage Trust Fund .....		20,000	20,000
76. HIGHWAY DEPART- MENT:			
(a) Central Administration Program .....			13,214,413
(b) Division and District Super- vision Program .....			22,334,111

(c) Operations and Support Services Program .....	9,260,000
(d) Maintenance Program .....	148,598,837
(e) Non-Programmatic Programs .....	24,578,366
Proposed spending plan for the above (e) includes the following:	
Debt Service .....	21,777,370
Equipment-Other than Automotive .....	2,800,996
(f) Construction-Federal Aid Program .....	295,598,160
Proposed spending plan for the above (f) includes the following:	
Federal Aid Matching .	45,544,720
Non-Participating Work on Federal Projects .....	1,000,000
Federal Aid .....	249,053,440
(g) Construction-State Program ..	25,000,000
(h) Operations-Land and Buildings .....	3,209,290
(i) Captive County Health Insurance .....	168,480

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer	100,107
(2) Public Road and Bridge Fund .....	292,808,110
(3) Federal Aid .....	249,053,440

There is hereby appropriated, for payment of the principal of and the interest on all bonds theretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, Alabama Federal Aid Highway Finance Authority, or Alabama Industrial Access Road and Bridge Corporation, a total of \$21,777,370 or so much as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment.

The Highway Director with the consent of the Governor and the Finance Director shall have the authority to transfer any appropriation or any portion thereof between and among Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), of this Section whenever such transfer shall be necessary to assure maximum utilization of Federal Matching Funds which shall become available. In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable. In the event of such insufficiency in respect of the said revenues accruing to the State Highway Department:

- (1) the appropriations made for Debt Service in Subsection (e) hereof shall be paid in full, (2) the appropriations from the revenues accruing to the State Highway Department that are herein made for the purposes referred to in Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), except for Debt Service, hereof shall be allocated among the purposes referred to in said Subsections in such order and with such priorities as the State Highway Director shall from time to time direct. The funds appropriated in Subsection (f) hereof, for the matching Federal Funds, shall not revert at the end of the fiscal year for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made. In addition to all appropriations hereinabove made there is hereby appropriated to the State Highway



Department all Federal Funds accruing thereto to be expended only for the purpose for which such funds are made available.

Total Highway Department .....	100,107	541,861,550	541,961,657
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In addition to the above appropriation to Highway Department, there is hereby appropriated the sum of \$350,000 from any sources available to the Highway Department as the state match for additional federal mass transit funds to purchase capital equipment (rolling stock) for the state mass transportation program and for an insurance and/or self insurance program. In addition to the above appropriation, there is also hereby conditionally appropriated the sum of \$1,000,000 to be utilized for necessary start-up expenditures for a bridge load testing research program. Said appropriation shall be conditioned on the availability of funds in the State General Fund or Public Road and Bridge Fund, the recommendation of the State Finance Director and the approval of the Governor.

#### 77. HISTORIC BLAKELEY AUTHORITY:

(a) Tourism and Travel Promotion Program .....	315,150
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#### SOURCE OF FUNDS:

(1) State General Fund .....	315,150	
Total Historic Blakeley Authority .....	315,150	315,150

Any law to the contrary notwithstanding, any funds encumbered for capital outlay purposes by the Historic Blakeley Authority shall

not revert to the State General Fund but shall be carried over from previous fiscal years to be used for said capital outlay purposes.

78. HISTORIC CHATTAHOOCHEE COMMISSION:

(a) Historical Resources Management Program .....	142,000
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SOURCE OF FUNDS:

(1) State General Fund .....	142,000	
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Total Historic Chattahoochee Commission .....	142,000	142,000
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79. HISTORICAL COMMISSION, ALABAMA:

(a) Historical Resources Management Program .....	2,822,094
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,619,509
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The above appropriation shall be distributed as follows:

Historical Commission,  
Alabama .....672,735

Historical Commission, Alabama-  
La Grange .....7,774

Historical Commission, Alabama-  
Magnolia Grove .....38,000

Historical Commission, Alabama-  
Fort Morgan .....230,000

Of the above appropriation for Fort Morgan, at least \$50,000 shall be expended for capital repairs and renovation.

Historical Commission, Alabama-  
Fort Toulouse .....110,294

Historical Commission, Alabama-  
John T. Morgan House,  
Selma .....11,460

Historical Commission, Alabama-  
Cahaba .....150,000

Historical Commission, Alabama-  
Gaineswood ..... 74,246  
Historical Commission, St.  
Stephens ..... 10,000  
Historical Commission, Alabama-  
Main Street ..... 100,000

To be distributed as follows:

- 1) Grants to each approved Main  
Street City, \$48,000; 2) For re-  
cruitment of new cities, \$3,000;  
3) The National Main Street  
Center, \$25,000; 4) Operations  
and Maintenance, \$10,000; 5)  
For brochures, pamphlets, fact-  
sheets, etc., \$10,000; 6) For  
Downtown Revitalization Con-  
ference, \$4,000.

Historical Commission, Alabama-  
Old Mobile Project ..... 150,000  
Mobile Historical Society .. 50,000  
Pharmaceutical Museum-  
Montgomery ..... 15,000

(2) Soldiers Fund ..... 160,000

As provided in Section 40-8-3, Code  
of Alabama 1975.

(3) Alabama State Historical  
Preservation Fund-Departmen-  
tal Receipts ..... 617,585

(4) Federal and Local Funds ..... 425,000

Total Alabama Historical Commission .....	1,619,509	1,202,585	2,822,094
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#### 80. HUMAN RESOURCES, DE- PARTMENT OF:

(a) Human Services Program ..... 335,947,280

It is the intent of the Legislature  
that allotments be made to the  
County Departments of Human  
Resources in the amount of  
\$165,500 to fund, upon approval  
of the county department direc-  
tor, supplemental client services  
not otherwise provided for

through existing programs of the Department of Human Resources. Allotments to the county departments based on the counties' populations according to the 1980 census are as follows: county populations greater than 50,000, \$3,500; county populations less than 50,000, \$2,000.

**SOURCE OF FUNDS:**

(1) State General Fund-Transfer	29,207,766		
(2) Federal and Local Funds .....		220,900,814	
(3) ABC Profits .....		1,100,000	
(4) Whiskey Tax .....		20,500,000	
(5) Beer Tax .....		8,500,000	
(6) Pension Residue .....		16,000,000	
(7) Sales Tax .....		1,322,000	
(8) Franchise Tax .....		13,400,000	
(9) Child Support Collections .....		4,301,034	
(10) Sales Tax for Food Stamps, Est. ....		14,345,666	
In accordance with Section 40-23-35, Code of Alabama 1975.			
(11) Cigarette Tax .....		4,055,000	
(12) Contractor's Gross Receipts Tax .....		2,315,000	
<hr/>			
Total Department of Human Resources .....	29,207,766	306,739,514	335,947,280

It is the intent of the Legislature that the Department of Human Resources allocate as much as necessary of the above appropriation to be expended to fund a 5% increase in ADC payments.

**81. INDIAN AFFAIRS COMMISSION, ALABAMA:**

(a) Social Services Program .....	200,000
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The above appropriation is to be expended in accordance with Sections 41-9-708 et seq., Code of Alabama 1975.

## SOURCE OF FUNDS:

(1) State General Fund .....	200,000		
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Total Alabama Indian Affairs Commission .....	200,000		200,000

## 82. INDUSTRIAL DEVELOPMENT AUTHORITY, STATE:

(a) Industrial Development Program .....			90,000
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## SOURCE OF FUNDS:

(1) SIDA Application Fees Fund .....	90,000		
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Total State Industrial Development Authority .....	90,000		90,000

## 83. INDUSTRIAL RELATIONS, DEPARTMENT OF:

(a) Employment Security Program .....			40,258,355
(b) Industrial Safety and Accident Prevention Program .....			7,385,576

Of the above appropriation, a total of \$100,000 shall be distributed to Walker State Technical College to be used in mine rescue programs. In addition a total of \$133,000 shall be expended for the enforcement of child labor laws.

(c) Administrative Services Program .....			10,216,636
(d) Workmen's Compensation Program .....			631,255

## SOURCE OF FUNDS:

(1) State General Fund .....	1,455,318		
(2) Federal and Local Funds .....		57,036,504	
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Total Department of Industrial Relations .....	1,455,318	57,036,504	58,491,822

## 84. INSURANCE, DEPARTMENT OF:

(a) Regulatory Services Program .....			3,636,181
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## SOURCE OF FUNDS:

(1) State General Fund .....	2,288,440		
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(2) Fire Marshal's Fund .....	189,139		
As provided in Sections 34-33-11 and 8-17-211, Code of Alabama 1975.			
(3) Examination Revolving Fund .....	1,158,602		
Total Department of Insurance ....	2,288,440	1,347,741	3,636,181
Of the above appropriation from the State General Fund, the sum of \$50,000 shall be expended by the Commissioner exclusively for newspaper publication of public notice of all insurance rate fil- ings prior to any hearings, deci- sions or other determinations by the Commissioner.			
85. INSURANCE BOARD, STATE EMPLOYEES':			
(a) Administrative Support Ser- vices Program .....			506,744
SOURCE OF FUNDS:			
(1) State Employees' Insurance Board Expense Fund .....	506,744		
Total State Employees' Insurance Board .....	506,744		506,744
86. INTERIOR DESIGNERS, ALABAMA STATE BOARD OF REGISTRATION FOR:			
(a) Professional and Occupational Licensing and Regulation Program .....			14,990
SOURCE OF FUNDS:			
(1) Interior Designer Fund .....	14,990		
As provided in Section 34-15A-7, Code of Alabama 1975.			
Total Alabama State Board of Registration for Interior Designers .....	14,990		14,990
87. LABOR, DEPARTMENT OF:			
(a) Regulatory Services Program			372,399
SOURCE OF FUNDS:			
(1) State General Fund .....	323,399		

(2) Federal and Local Funds .....	49,000		
Total Department of Labor .....	323,399	49,000	372,399
88. LANDSCAPE ARCHITECTS, BOARD OF EXAMINERS OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			25,789
SOURCE OF FUNDS:			
(1) Landscape Architects Fund ...		25,789	
As provided in Section 34-17-6, Code of Alabama 1975.			
Total Board of Examiners of Landscape Architects .....		25,789	25,789
89. LIEUTENANT GOVERNOR, OFFICE OF THE:			
(a) Legislative Operations and Support Program .....			615,730
SOURCE OF FUNDS:			
(1) State General Fund .....	615,730		
Total Office of the Lieutenant Governor .....	615,730		615,730
90. LIQUEFIED PETROLEUM GAS BOARD:			
(a) Regulatory Services Program			370,500
SOURCE OF FUNDS:			
(1) Liquefied Petroleum Gas Board Fund .....		370,500	
Total Liquefied Petroleum Gas Board .....		370,500	370,500
91. MANUFACTURED HOUSING COMMISSION, ALABAMA:			
(a) Regulatory Services Program			561,201
SOURCE OF FUNDS:			
(1) Alabama Manufactured Housing Commission Fund .....		521,201	
As provided in Section 24-6-4, Code of Alabama 1975.			

(2) Transfer from Mobile Home Title Fee Receipts Levied in Section 32-8-6, Code of Alabama 1975 .....	40,000	
Total Alabama Manufactured Housing Commission .....	561,201	561,201
92. MEDICAID AGENCY, ALABAMA:		
(a) Medical Assistance Through Medicaid Program .....		853,637,632
The Medicaid Agency will reimburse the Department of Public Health for actual costs (in compliance with OMB Circular A.87 and Health Care Financing Administration guidelines) for services provided.		
(b) Transitional Beds for Rural Hospitals Program .....		3,732,875
(c) Reimbursement at Teaching Hospitals and Nursing Homes Program .....		6,538,462
SOURCE OF FUNDS:		
(1) State General Fund .....	146,544,443	
(2) State General Fund-Transitional Beds for Rural Hospitals .....	1,000,000	
(3) State General Fund-Reimbursement at Teaching Hospitals and Nursing Homes .....	1,700,000	
(4) Transfer from Department of Human Resources .....	8,440,162	
(5) Transfer from Mental Health .....	36,829,122	
(6) Transfer from Commission on Aging .....	2,371,458	
(7) Transfer from Department of Public Health .....	2,786,908	
(8) Transfer from Crippled Childrens Service .....	1,989,044	
(9) Transfer from Department of Education .....	334,579	
(10) Transfer from Alabama Institute for Deaf and Blind .....	669,157	



(11) Indigent Care Trust Fund ....	23,877,000		
(12) Departmental Receipts .....	720,000		
(13) Federal and Local Funds .....	625,063,473		
(14) Unencumbered Balance Brought Forward .....	11,583,623		
Total Alabama Medicaid Agency	149,244,443	714,664,526	863,908,969

In addition to the above appropriation, there is also appropriated any local funds or transfers from other state departments as may become available to facilitate the receipt of matching federal funds in order to maximize federal participation in existing programs under Medicaid.

#### 93. MEN'S HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program .....	5,000
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#### SOURCE OF FUNDS:

(1) State General Fund-Transfer	5,000	
Total Men's Hall of Fame .....	5,000	5,000

#### 94. MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF:

(a) Institutional Treatment and Care-Mental Illness Program ....	102,454,056
(b) Institutional Treatment and Care-Mental Retardation Program .....	76,133,631
(c) Institutional Treatment and Care-Criminally Insane Program .....	6,077,601
(d) Administrative Services Program .....	10,215,069
(e) Community Services Program	82,186,479

To be allocated as follows:

(1) Mental Illness Services .....	41,641,421
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To be allocated as follows:

- i. Ambulatory  
Services ..... 18,500,000
- ii. Residential and Crisis  
Services ..... 13,317,421
- iii. Medicaid Services ....6,858,000
- iv. NICS and Indigent  
Drug .....2,966,000

The above appropriations shall be made to the Alabama Department of Mental Health and Mental Retardation (DMH/MR). The appropriations for Mental Illness Services excluding (e)1.iv. above shall be allocated by the DMH/MR to Regional Community Mental Health Boards established under Section 22-51-2, Code of Alabama, 1975. First priority for appropriated funds shall be the development of a comprehensive array of services for the SMI/SED population. Such MI services shall be provided according to a plan developed by DMH/MR in full and explicit cooperation with community Boards that recognizes community needs and DMH/MR obligations with respect to the Wyatt Consent Decree, Federal Block Grant allocation rules, and operations funding of facilities constructed with bond issue proceeds.

(2) Substance Abuse

Services ..... 11,364,279

Funds for Substance Abuse Services shall be allocated by the DMH/MR to Regional Community Mental Health Boards and to community substance abuse agencies certified by DMH/MR.

## (3) Mental Retardation

Services ..... 29,180,779

Of the above appropriation of \$29,180,779 the sum of \$300,000 shall be allotted to the Wiregrass Mental Health Board, Inc. for completion of a group home for the Geneva County Association of Retarded Children.

## SOURCE OF FUNDS:

(1) State General Fund .....	69,163,646
(2) Special Mental Health Trust Fund .....	95,000,000

For Operations and Maintenance of the State Mental Health and Mental Retardation Department and the Mental Health and Mental Retardation Community Programs, including the purchase of drugs for medically indigent mental patients not hospitalized at time of receiving drugs at the Alabama state hospitals.

(3) Transfer from ABC Profits ....	1,000,000
(4) Cigarette Tax .....	7,000,000
(5) Departmental Receipts .....	7,701,208
(6) Federal and Local Funds .....	97,201,982
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Total Department of Mental Health and Mental Retardation .....	69,163,646 207,903,190 277,066,836

## 95. MILITARY DEPARTMENT:

(a) Military Operations Program	6,017,821
(b) Capital Outlay .....	337,000

## SOURCE OF FUNDS:

(1) State General Fund-Operations .....	1,766,752
(2) State General Fund-Quarterly Allowances Headquarters .....	1,575,000

(3) State General Fund-Capital Outlay for Architect and Engineering Services, Specifications, Repair and Construction of Facilities .....	337,000
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The above appropriation shall include funding for the construction of one armory.

(4) State General Fund-Active Military Service .....	37,500
(5) State General Fund-Transfer to Armory Commission .....	2,630,069
(6) State General Fund-Dropping Allowance .....	4,500
(7) State General Fund-State Defense Force .....	4,000

Total Military Department .....	6,354,821	6,354,821
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In addition to the above appropriation to the Military Department, there is hereby appropriated \$1,900,000 from the State General Fund to be conditioned on the availability of funds in the State General Fund, the recommendation of the State Finance Director and the approval of the Governor.

#### 96. MILITARY DEPARTMENT-ARMORY COMMISSION OF ALABAMA:

(a) Military Operations Program	6,337,096
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#### SOURCE OF FUNDS:

(1) Transfer from Military Department .....	2,630,069
(2) Federal and Local Funds .....	3,632,281
(3) Military Department Billeting Revolving Fund, Estimated .....	67,546
(4) Departmental Receipts .....	7,200

The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the

credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance, and construction of facilities; provided, however, that the last federal government service contract reimbursement shall not revert to the State General Fund, and any unobligated balance remaining thereof in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.

Total Armory Commission of Alabama .....	6,337,096	6,337,096
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97. MOTOR SPORTS HALL OF FAME:		
(a) Tourism and Travel Promotion Program .....		133,044
SOURCE OF FUNDS:		
(1) State General Fund .....	133,044	
Total Motor Sports Hall of Fame	133,044	133,044
<hr/>		
98. MUSIC HALL OF FAME, ALABAMA:		
(a) Fine Arts Program .....		220,354
SOURCE OF FUNDS:		
(1) State General Fund .....	220,354	
Total Alabama Music Hall of Fame .....	220,354	220,354
<hr/>		
99. NURSING, ALABAMA BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program .....		1,378,332

## SOURCE OF FUNDS:

- (1) Alabama Board of Nursing  
Trust Fund-as provided in Code  
of Alabama 1975, as amended,  
Sections 34-21-1 through 34-21-  
43 .....

1,378,332

Total Alabama Board of Nursing

1,378,332

1,378,332

100. NURSING HOME AD-  
MINISTRATORS, BOARD OF  
EXAMINERS OF:

- (a) Professional and Occupational  
Licensing and Regulation  
Program .....

70,000

## SOURCE OF FUNDS:

- (1) Board of Examiners of Nurs-  
ing Home Administrators  
Fund .....

70,000

As provided in Section 34-20-7,  
Code of Alabama 1975.

Total Board of Examiners of Nurs-  
ing Home Administrators .....

70,000

70,000

## 101. OIL AND GAS BOARD:

- (a) Management and Regulation  
of Oil and Gas Exploration and  
Development Program .....

2,956,504

## SOURCE OF FUNDS:

- (1) State General Fund .....

2,436,209

- (2) Oil and Gas Board Special  
Fund .....

510,295

- (3) Surety Bond Deposits,  
Estimated .....

10,000

In accordance with Section 9-17-6,  
Code of Alabama 1975.

Total Oil and Gas Board .....

2,436,209

520,295

2,956,504

102. PARDONS AND PA-  
ROLES, BOARD OF:

- (a) Administration of Pardons and  
Paroles Program .....

13,561,667

## SOURCE OF FUNDS:

- (1) State General Fund .....

10,377,342

(2) Probationers Upkeep Fund ....	3,184,325		
In accordance with Section 15-22-2, Code of Alabama 1975.			
Total Board of Pardons and Paroles .....	10,377,342	3,184,325	13,561,667
103. PEACE OFFICERS' ANNUITY AND BENEFIT FUND, ALABAMA:			
(a) Retirement Systems Program .....			370,262
SOURCE OF FUNDS:			
(1) Peace Officers' Annuity and Benefit Fund .....		370,262	
As provided in Section 36-21-66, Code of Alabama 1975.			
Total Alabama Peace Officers' Annuity and Benefit Fund .....		370,262	370,262
104. PERSONNEL DEPARTMENT, STATE:			
(a) Administrative Support Services Program .....			3,613,864
SOURCE OF FUNDS:			
Transfers to the State Personnel Department shall be as follows:			
(1) Board of Public Accountancy .....		338	
(2) Department of Aeronautics ....		450	
(3) Commission on Aging .....		2,250	
(4) Department of Agriculture and Industries .....		49,110	
(5) Agricultural and Conservation Development Commission .....		113	
(6) Agricultural Center Board .....		2,363	
(7) Alcoholic Beverage Control Board .....		87,814	
(8) Board of Registration for Architects .....		169	
(9) Archives and History .....		5,569	
(10) State Council on the Arts ....		1,519	
(11) Attorney General's Office ....		16,145	
(12) State Auditor .....		2,306	

(13) State Banking Department ..	5,738
(14) Building Commission .....	2,531
(15) Child Abuse and Neglect Pre- vention Board .....	225
(16) Chiropractic Examiners .....	113
(17) Department of Conservation and Natural Resources .....	149,975
(18) State Licensing Board for General Contractors .....	731
(19) Department of Corrections ..	326,109
(20) Board of Cosmetology .....	1,463
(21) Credit Union Administration .....	731
(22) Alabama Crime Victims Compensation Commission .....	1,181
(23) Criminal Justice Information Center .....	7,088
(24) Alabama Development Office .....	5,063
(25) State Docks .....	28,802
(26) Department of Economic and Community Affairs .....	38,928
(27) Department of Education .....	154,138
(28) Electrical Contractors Board .....	56
(29) Emergency Management Agency .....	4,782
(30) Local Emergency Management .....	4,504
(31) Employees' Insurance Board .....	675
(32) Board of Registration for Professional Engineers and Land Surveyors .....	506
(33) Department of Environmen- tal Management .....	34,597
(34) Ethics Commission .....	900
(35) Examiners of Public Accounts .....	26,046
(36) Farm Crisis and Transition Program Commission .....	675



(37) Farmers' Market Authority ..	281
(38) Finance Department .....	63,118
(39) Finance-Alabama Building Authority .....	1,013
(40) Finance-Alabama Building Finance Authority .....	788
(41) Foreign Trade Relations Commission .....	169
(42) Department of Forensic Sciences .....	14,457
(43) Forestry Commission .....	49,392
(44) Funeral Services .....	169
(45) Governor's Office .....	4,388
(46) Department of Public Health .....	315,984
(47) State Health Planning Agency .....	1,463
(48) Board of Heating and Air Conditioning Contractors .....	450
(49) Highway Department .....	454,369
(50) Alabama Historical Commission .....	6,188
(51) Department of Human Resources .....	475,015
(52) Alabama Indian Affairs Commission .....	281
(53) Department of Industrial Relations .....	195,091
(54) Insurance Department .....	6,469
(55) Judicial Inquiry Commission	56
(56) Department of Labor .....	1,013
(57) Legislative Reference Service .....	675
(58) Liquefied Petroleum Gas Board .....	844
(59) Manufactured Housing Commission .....	900
(60) Alabama Medicaid Agency ...	33,584
(61) Department of Mental Health and Mental Retardation .....	536,445

(62) Military Department .....	22,108
(63) Board of Nursing .....	2,081
(64) Board of Examiners of Nursing Home Administrators .....	56
(65) Oil and Gas Board .....	13,332
(66) Pardons and Paroles .....	38,478
(67) Peace Officers' Annuity and Benefit Fund .....	281
(68) Peace Officers' Standards and Training Commission .....	619
(69) Physical Fitness Commission .....	675
(70) Board of Physical Therapy ..	56
(71) Plumbers and Gas Fitters Examiners Board .....	619
(72) Public Library Service .....	7,932
(73) Department of Public Safety .....	137,599
(74) Public Service Commission	16,089
(75) Alabama Educational Television Commission .....	9,563
(76) Real Estate Commission .....	1,913
(77) Retirement Systems .....	15,470
(78) Department of Revenue .....	140,524
(79) Seafood Advisory Commission .....	56
(80) Secretary of State .....	5,119
(81) Securities Commission .....	2,138
(82) Board of Social Work Examiners .....	169
(83) Soil and Water Conservation .....	394
(84) Surface Mining Commission .....	4,557
(85) Bureau of Tourism and Travel .....	8,888
(86) State Treasurer .....	4,782
(87) Department of Veterans' Affairs .....	7,144

(88) Board of Veterinary Medical Examiners .....	169	
(89) Department of Youth Services .....	46,748	
Total State Personnel Department	3,613,864	3,613,864
105. PHYSICAL THERAPY, BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program .....		95,315
SOURCE OF FUNDS:		
(1) Physical Therapist Fund .....	95,315	
As provided in Section 34-24-195, Code of Alabama 1975.		
Total Board of Physical Therapy	95,315	95,315
106. PLUMBERS AND GAS FITTERS EXAMINING BOARD, ALABAMA:		
(a) Professional and Occupational Licensing and Regulation Program .....		496,500
SOURCE OF FUNDS:		
(1) Board of Plumbers and Gas Fitters Examiners Fund .....	496,500	
Total Alabama Plumbers and Gas Fitters Examining Board .....	496,500	496,500
107. POLYGRAPH EXAM- INERS, BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program .....		15,000
SOURCE OF FUNDS:		
(1) Board of Polygraph Exam- iners Fund .....	15,000	
As provided in Section 34-25-5, Code of Alabama 1975.		

Total Board of Polygraph Examiners .....	15,000	15,000
108. PROSECUTION SERVICES, OFFICE OF:		
(a) Prosecution, Training, Education and Management Program .....		1,277,493
SOURCE OF FUNDS:		
(1) State General Fund .....	139,958	
(2) Office of Prosecution Services Fund .....	1,137,535	
Total Office of Prosecution Services .....	139,958	1,277,493
109. PSYCHOLOGY, ALABAMA BOARD OF EXAMINERS IN:		
(a) Professional and Occupational Licensing and Regulation Program .....		62,048
SOURCE OF FUNDS:		
(1) Board of Examiners in Psychology Fund .....	62,048	
As provided in Section 34-26-43, Code of Alabama 1975.		
Total Alabama Board of Examiners in Psychology .....	62,048	62,048
110. PUBLIC SAFETY, DEPARTMENT OF:		
(a) Police Services Program .....		34,061,869
(b) Public Safety Support Services Program .....		7,065,726
(c) Administrative Services Program .....		14,703,014
SOURCE OF FUNDS:		
(1) State General Fund .....	51,979,428	
(2) Transfer from ABC Profits ....	2,000,000	
(3) Federal and Local Funds .....	1,851,181	

Total Department of Public Safety .....	51,979,428	3,851,181	55,830,609
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Of the above appropriation to the Department of Public Safety, \$1,000,000 shall be expended for the Automated Fingerprint Identification System (A.F.I.S.) and the commercial driver's license programs.

#### 111. PUBLIC SERVICE COMMISSION:

(a) Regulatory Services Program .....	4,744,648
(b) Administrative Services Program .....	3,409,268
(c) Transfer to State General Fund .....	500,000

Any law to the contrary notwithstanding, the Public Service Commission shall transfer \$500,000 from the Public Service Commission Fund to the State General Fund.

#### SOURCE OF FUNDS:

(1) Public Service Commission Fund .....	8,137,892
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The above appropriation to the Alabama Public Service Commission shall be payable only from inspection and supervision fees paid by utilities, radio companies, and transportation companies and such parts or percentages of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in excess of \$600,000 shall be transferred to the State General Fund.

(2) Gas Pipeline Safety Fund .....	374,024	
(3) Departmental Receipts .....	22,000	
(4) Federal and Local Funds .....	120,000	
Total Public Service Commission	8,653,916	8,653,916

#### 112. REAL ESTATE COMMISSION, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program .....		1,670,233
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#### SOURCE OF FUNDS:

(1) Alabama Real Estate Commission Fund .....	1,670,233	
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As provided in Section 34-27-4, Code of Alabama 1975 and the total expenditures shall in no manner exceed the amounts hereby appropriated.

Total Alabama Real Estate Commission .....	1,670,233	1,670,233
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#### 113. REVENUE, DEPARTMENT OF:

(a) State Revenue Administration Program .....	62,894,368
(b) Transfer to State General Fund .....	800,000

Any other law to the contrary notwithstanding, it is the intent of the Legislature that the Department of Revenue transfer \$800,000 to the State General Fund from the balance in the Rebuilt Salvage Motor Vehicle Fund, Revenue Fund #301918.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer	250,000
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As provided in Section 40-7-70, Code of Alabama 1975, to maintain a program for the equalization of ad valorem tax assessments.

(2) State General Fund-Board of Equalization .....	124,442
(3) Transfer from the gross proceeds of Cigarette Tax Collections .....	1,156,595
As provided in Section 40-25-27, Code of Alabama 1975.	
(4) Transfer from the gross proceeds of Financial Institution Excise Tax Collections .....	299,751
(5) Transfer from the proceeds of the Forest Severance Tax Collections .....	110,400
(6) Transfer from the gross proceeds of Gasoline Tax Collections .....	5,248,358
(7) Transfer from the Income Tax Collections .....	17,811,879
(8) Transfer from the gross proceeds of Motor Fuel Tax Collections .....	1,093,842
(9) Transfer from the gross proceeds of Motor Vehicle License Collections .....	2,371,740
(10) Transfer from the Pension Fund as part of the cost of collections of the 1-Mill Ad Valorem Tax .....	725,733
(11) Transfer from the Public School Fund as part of the cost of collections of the 3-Mill Ad Valorem Tax .....	1,788,017
(12) Transfer from the gross proceeds of Sales Tax Collections ..	15,713,567
(13) Transfer from the gross proceeds of the Tobacco Tax Collections .....	47,336
(14) Transfer from the gross proceeds of Use Tax Collections ....	1,719,660
(15) Transfer from the gross proceeds of the Utility Tax Collections .....	3,817,965
(16) Local Funds .....	6,900,000

(17) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags	2,365,083
(18) Inspection fees for restored vehicles .....	2,050,000
As provided in Section 32-8-87, Code of Alabama 1975.	
(19) Revenue Administration Fund-Transfer from Abandoned Property Trust Fund as provided in Section 35-12-39, Code of Alabama 1975 .....	100,000

The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law. Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the Legislature as a charge for the collection of taxes or licenses.

Total Department of Revenue .....	374,442	63,319,926	63,694,368
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#### 114. SECRETARY OF STATE:

(a) Administrative Support Services Program .....	2,559,000
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#### SOURCE OF FUNDS:

(1) State General Fund .....	928,764		
(2) UCC and Farm Indexing Fund .....		480,010	
(3) Corporations Fund .....		1,150,226	
Total Secretary of State .....	928,764	1,630,236	2,559,000

Any law to the contrary notwithstanding, any of the funds in the



trust accounts in the Secretary of State Office can be interchanged between trust accounts for the purpose of computerization and any such preparation, programming and purchasing and operation of such computer.

#### 115. SECURITIES COMMISSION:

(a) Regulatory Services Program	857,366
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#### SOURCE OF FUNDS:

(1) State General Fund .....	699,030		
(2) Industrial Revenue Bond Notification Fund .....		77,704	
(3) Sale of Checks License Fund		1,215	
(4) Exemption Fund .....		79,417	
Total Securities Commission .....	699,030	158,336	857,366

#### 116. SENIOR CITIZENS HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program .....	22,681
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To be expended in accordance with Sections 41-9-740 et seq., Code of Alabama 1975.

#### SOURCE OF FUNDS:

(1) State General Fund .....	22,681	
Total Alabama Senior Citizens Hall of Fame .....	22,681	22,681

#### 117. SOCIAL WORK EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	75,069
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#### SOURCE OF FUNDS:

(1) Alabama State Board of Social Work Examiners Fund .....	75,069
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As provided in Section 34-30-6, Code of Alabama 1975.

Total Alabama State Board of Social Work Examiners .....	75,069	75,069
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118. SOIL AND WATER CONSERVATION COMMITTEE, STATE:		
(a) Water Resource Development Program .....		1,375,706
Of the above appropriation for the Water Resource Development Program, \$50,000 shall be allocated to the Sand Mountain Water Conservancy District.		
(b) Professional and Occupational Licensing and Regulation Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	1,335,706	
(2) Soil Classifiers Fund .....		5,000
As provided in Section 34-32-19, Code of Alabama 1975.		
(3) Transfer from Agricultural and Conservation Development Commission .....		40,000
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Total State Soil and Water Conservation Committee .....	1,335,706	45,000
		1,380,706
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119. SOUTHERN GROWTH POLICIES BOARD:		
(a) Special Services Program .....		28,943
SOURCE OF FUNDS:		
(1) State General Fund .....	28,943	
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Total Southern Growth Policies Board .....	28,943	28,943
<hr/>		
120. SPACE SCIENCE EXHIBIT COMMISSION, ALABAMA:		
(a) Tourism and Travel Promotion Program .....		200,000
SOURCE OF FUNDS:		
(1) State General Fund .....	200,000	
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Total Space Science Exhibit Commission .....	200,000	200,000
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121. SPEECH PATHOLOGY AND AUDIOLOGY, ALABAMA BOARD OF EXAMINERS FOR:

(a) Professional and Occupational Licensing and Regulation Program .....		45,677
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners for Speech Pathology and Audiology Fund .....	45,677	
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As provided in Section 34-28A-44, Code of Alabama 1975.

Total Alabama Board of Examiners for Speech Pathology and Audiology .....	45,677	45,677
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122. SPORTS HALL OF FAME, ALABAMA:

(a) Historical Resources Management Program .....		145,000
(b) Capital Outlay .....		375,000

SOURCE OF FUNDS:

(1) State General Fund .....	145,000	
(2) State General Fund-Capital Outlay .....	375,000	

Total Alabama Sports Hall of Fame .....	520,000	520,000
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123. SURFACE MINING COMMISSION, ALABAMA:

(a) Industrial Safety and Accident Prevention Program .....		2,674,633
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	375,000	
(2) Surface Mining Commission-Fees .....		712,317
(3) Federal and Local Funds .....		1,087,316

(4) Bond Forfeiture/Reclamation Projects, Estimated .....		500,000	
As provided by Section 9-16-103, Code of Alabama 1975.			
Total Alabama Surface Mining Commission .....	375,000	2,299,633	2,674,633
124. TANNEHILL FURNACE AND FOUNDRY COMMISSION:			
(a) Historical Resources Management Program .....			365,392
SOURCE OF FUNDS:			
(1) State General Fund .....	365,392		
Total Tannehill Furnace and Foundry Commission .....	365,392		365,392
The above appropriation shall include \$40,000 for Brierfield Ironworks Park.			
125. TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY:			
(a) Water Resource Development Program .....			101,000
SOURCE OF FUNDS:			
(1) State General Fund .....	101,000		
Total Tennessee-Tombigbee Waterway Development Authority .....	101,000		101,000
126. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA:			
(a) Promotional Development Program .....			344,532
To be expended in accordance with Sections 41-9-780 et seq., Code of Alabama 1975.			
SOURCE OF FUNDS:			
(1) State General Fund .....	70,766		
(2) Admissions and Concessions		150,000	

(3) Interest on Investment Account .....	72,930		
(4) Federal and Local Funds .....	50,836		
Total Tennessee Valley Exhibit Commission of Alabama .....	70,766	273,766	344,532

127. TOURISM AND TRAVEL,  
BUREAU OF:

(a) Tourism and Travel Promotion Program .....	5,391,808		
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The above appropriation shall include \$50,000 for the Cahaba Trace Commission.

SOURCE OF FUNDS:

(1) State General Fund .....	1,442,411		
(2) Lodgings Tax (\$0.01) .....	3,949,397		

Receipts collected under the provisions of Sections 40-26-1 et seq., Code of Alabama 1975.

Total Bureau of Tourism and Travel .....	1,442,411	3,949,397	5,391,808
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128. LOUISIANA, MISSISSIPPI, ALABAMA RAPID  
RAIL TRANSIT COMMISSION:

(a) Special Services Program .....	568,000		
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SOURCE OF FUNDS:

(1) State General Fund .....	568,000		
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Total Louisiana, Mississippi, Alabama Rapid Rail Transit Commission .....	568,000		568,000
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129. TREASURER, STATE:

(a) Fiscal Management Program .....	1,889,448		
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SOURCE OF FUNDS:

(1) State General Fund .....	1,889,448		
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Total State Treasurer .....	1,889,448	1,889,448
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130. UNIFORM STATE LAWS,  
ALABAMA COMMISSION  
ON:

(a) Special Services Program, Estimated .....		6,500
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SOURCE OF FUNDS:

(1) State General Fund .....	6,500	
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As provided in Section 41-9-374,  
Code of Alabama 1975.

Total Alabama Commission on Uniform State Laws .....	6,500	6,500
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131. VETERANS' AFFAIRS,  
DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program .....		4,406,869
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The above appropriation to the  
Department of Veterans' Affairs  
shall include \$50,000 for the Ala-  
bama Vietnam Veterans' Lead-  
ership Program, Inc.

SOURCE OF FUNDS:

(1) State General Fund .....	3,165,947	
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(2) Veterans Home Trust Fund- Transfer .....		1,240,922
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Total Department of Veterans' Affairs .....	3,165,947	1,240,922	4,406,869
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132. VETERINARY MEDICAL  
EXAMINERS, ALABAMA  
STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....		145,000
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SOURCE OF FUNDS:

(1) State Board of Veterinary Medical Examiners Fund .....		145,000
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As provided in Section 34-29-23  
and Section 34-29-41, Code of  
Alabama 1975.

Total Alabama State Board of Veterinary Medical Examiners .....	145,000	145,000
133. VOTER REGISTRATION IDENTIFICATION PROGRAM:		
(a) Special Services Program .....		65,000
SOURCE OF FUNDS:		
(1) State General Fund .....	65,000	
Total Voter Registration Identification Program .....	65,000	65,000
134. WOMEN'S COMMISSION, ALABAMA:		
(a) Employment and Social Opportunities Program .....		12,500
SOURCE OF FUNDS:		
(1) State General Fund .....	12,500	
Total Alabama Women's Commission .....	12,500	12,500
135. WOMEN'S HALL OF FAME, ALABAMA:		
(a) Historical Resources Management Program .....		5,444
SOURCE OF FUNDS:		
(1) State General Fund .....	5,444	
Total Alabama Women's Hall of Fame .....	5,444	5,444
136. YOUTH SERVICES, DEPARTMENT OF:		
(a) Youth Services Program .....		617,977
The above appropriation shall be expended in accordance with the provisions of Sections 44-1-1 through 44-1-56, Code of Alabama 1975.		
(b) Juvenile Probation Officers Subsidy .....		3,239,667
(c) Capital Outlay-West Alabama Juvenile Detention Center .....		300,000

(d) Regional Detention Centers ...	500,000
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**SOURCE OF FUNDS:**

(1) State General Fund-Youth Services and Regional Detention Centers Program .....	1,117,977	
(2) State General Fund-Juvenile Probation Officers Subsidy .....	3,239,667	
(3) State General Fund-Capital Outlay .....	300,000	
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Total Department of Youth Services .....	1,657,644	4,657,644
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In addition to the above appropriation for the Department of Youth Services, there is also hereby conditionally appropriated the sum of \$1,000,000 for Regional Detention Centers to be conditioned on the availability of funds in the State General Fund, the recommendation of the State Finance Director and the approval of the Governor.

**2D. OTHER FUNCTIONS OF GOVERNMENT FUNDED FROM THE STATE GENERAL FUND:**

**1. ADVERTISING LANDS FOR TAX SALE:**

(a) State Revenue Administration Program, Estimated .....	120,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	120,000	
As provided in Section 40-10-22, Code of Alabama 1975.		
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Total Advertising Lands for Tax Sale .....	120,000	120,000
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**2. ARREST OF ABSCONDING FELONS:**

(a) Criminal Investigation Program, Estimated .....	65,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	65,000
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As provided in Section 15-9-3, Code of Alabama 1975.

Total Arrest of Absconding Felons .....	65,000	65,000
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3. ATTORNEYS' FEES FOR REAPPORTIONMENT CASES:

(a) Legal Advice and Legal Services Program, Estimated .....		150,000
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SOURCE OF FUNDS:

(1) State General Fund .....	150,000	
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Total Attorneys' Fees for Reapportionment Cases .....	150,000	150,000
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4. AUTOMATIC APPEAL EXPENSE:

(a) Legal Advice and Legal Services Program, Estimated .....		100
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SOURCE OF FUNDS:

(1) State General Fund .....	100	
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As provided in Section 12-22-150 and Section 12-22-241, Code of Alabama 1975.

Total Automatic Appeal Expense	100	100
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5. CIVIL COURT COSTS IN CONNECTION WITH AD VALOREM TAX ASSESSMENTS APPEALS:

(a) State Revenue Administration Program, Estimated .....		200
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SOURCE OF FUNDS:

(1) State General Fund .....	200	
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As provided in Section 40-7-45, Code of Alabama 1975.

Total Civil Court Costs in Connection with Ad Valorem Tax Assessments Appeals .....	200	200
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6. CONSUMER UTILITY RATE HEARING:

(a) Executive Direction Program		250,000
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SOURCE OF FUNDS:

(1) State General Fund .....	250,000	
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As provided in Section 37-1-18,  
Code of Alabama 1975.

Total Consumer Utility Rate		
Hearing .....	250,000	250,000

**7. COURT RELATED COSTS  
NOT OTHERWISE PRO-  
VIDED FOR:**

(a) Court-Assessed Cost Provided in Code of Alabama 1975, Sec- tions 22-52-14, 30-4-95, 26-17- 17, 12-21-131 and Act 87-574, Estimated .....		1,000,000
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(b) Legal Advice and Legal Serv- ices Program .....		450,000
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It is the intent of the Legislature  
that the appropriation in this  
subsection be expended for Court  
Costs to include costs of depo-  
sitions, witness fees and ex-  
penses, filing and docket fees,  
court reporters, court judg-  
ments, attorneys fees, out-of-  
court settlements, and other ex-  
penses ordered by the court or  
normally identified as costs of  
court, when any of the above is  
approved by the Attorney Gen-  
eral.

(c) Automatic Appeal Cases Ex- pense Program .....		50,000
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The above appropriation shall be  
used to reimburse reasonable ex-  
penses incurred by attorneys  
representing defendants under  
sentence of death in state collat-  
eral proceedings, such as those  
under Rule 32 of the rules of  
Criminal Procedure. Provided,  
in no case may any amount be  
paid unless the court determines  
by written order in advance that  
the cost is both necessary and  
reasonable; in no single case may  
the total amount paid for all costs

exceed \$5,000; and in no event may any amount be paid out of this appropriation as fees to any attorney for his services, or to compensate any attorney for his time either as an attorney in the proceeding or as a witness.

#### SOURCE OF FUNDS:

(1) State General Fund, Estimated .....	1,000,000	
(2) State General Fund .....	450,000	
(3) State General Fund-Auto- matic Appeal Cases .....	50,000	
Total Court Cost Not Otherwise Provided For .....	1,500,000	1,500,000

#### 8. COURT COSTS-ACT NO. 558, 1957:

(a) Court Operations Program, Estimated .....		500
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#### SOURCE OF FUNDS:

(1) State General Fund .....	500	
Pursuant to Act No. 558, 1957, page 777.		
Total Court Costs-Act No. 558, 1957 .....	500	500

#### 9. DISTRIBUTION OF PUB- LIC DOCUMENTS:

(a) Administrative Support Ser- vices Program, Estimated .....		80,000
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#### SOURCE OF FUNDS:

(1) State General Fund .....	80,000	
As provided in Sections 41-21-8, 36-14-1, and 36-14-11, Code of Alabama 1975.		
Total Distribution of Public Documents .....	80,000	80,000

**10. STATE DOCKS**

TRANSFER .....	3,500,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	3,500,000
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The above appropriation to the State Docks shall be conditional upon the availability of funds and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Finance Director and approved by the Governor.

Total State Docks Transfer .....	3,500,000	3,500,000
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**11. ELECTION EXPENSES:**

(a) Special Services Program, Estimated .....	2,000,000
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(b) Training of Election Officials, Estimated .....	80,000
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For payment of expenses pursuant to the court order entered by the U.S. District Court, Middle District of Alabama in Civil Action No. 84-T-595-N.

**SOURCE OF FUNDS:**

(1) State General Fund .....	2,080,000
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As provided in Section 17-4-153, Code of Alabama 1975.

Total Election Expenses .....	2,080,000	2,080,000
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**12. EMERGENCY FUND, DEPARTMENTAL:**

(a) Special Services Program .....	1,500,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	1,500,000
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This is the appropriation contemplated in Section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section. This appropriation shall be

expended solely for the purpose of addressing a financial emergency within a state department, board, commission, bureau, office or agency. None of the above appropriation shall be transferred to the Governor's contingency fund. At least 10 days prior to the release of any of this appropriation to any state department, board, commission, bureau, office or agency, the State Finance Director shall notify the Chairman of the Senate Finance and Taxation Committee and the Chairman of the House Committee on Ways and Means of such pending transfer.

Total Departmental Emergency Fund .....	1,500,000	1,500,000
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### 13. FAIR TRIAL TAX TRANSFER:

(a) Court Operations Program, Estimated .....	500,000
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### SOURCE OF FUNDS:

(1) State General Fund-Transfer	500,000	
Total Fair Trial Tax .....	500,000	500,000

### 14. FEEDING OF PRISONERS:

(a) Institutional Services-Corrections Program, Estimated .....	3,250,000
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### SOURCE OF FUNDS:

(1) State General Fund .....	3,250,000
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For expenses of feeding prisoners in county jails in accordance with Section 14-6-42, Code of Alabama 1975.

Total Feeding of Prisoners .....	3,250,000	3,250,000
15. DEPARTMENT OF FINANCE-EMPLOYEES' SUGGESTION AWARDS PROGRAM:		
(a) Fiscal Management Program		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	10,000	
In accordance with Section 36-1-7, Code of Alabama 1975.		
Total Department of Finance-Employees' Suggestion Awards Program .....	10,000	10,000
16. FINANCE-FEMA, DEPARTMENT OF:		
(a) Readiness and Recovery, Program Estimated .....		500,000
Payments of the State's Share of administrative costs and matching grants furnished by the Federal Emergency Management Agency.		
SOURCE OF FUNDS:		
(1) State General Fund .....	500,000	
Total Department of Finance-FEMA .....	500,000	500,000
17. DEPARTMENT OF FINANCE-SPECIAL SETTLEMENT FUND:		
(a) Special Services Program .....		2,100,000
SOURCE OF FUNDS:		
(1) State General Fund .....	2,100,000	
Total Department of Finance-Special Settlement Fund .....	2,100,000	2,100,000
The above appropriation to the Department of Finance-Special Settlement Fund is for the purpose of funding the Special Settlement Fund provided for in the		

settlement decree agreed to by the parties in *Otis Clarence Walker et. al v. State of Alabama et. al CV-84-C-0027-S* (Federal District Court, Northern District of Alabama). Said appropriation is conditioned on the availability of funds in the State General Fund and the approval of the Governor.

#### 18. FOREST FIRE FUND, EMERGENCY:

(a) Forest Resources Protection and Development Program .....	180,000
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#### SOURCE OF FUNDS:

(1) State General Fund-Transfer	180,000
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The appropriation to the Emergency Forest Fire Fund shall be conditional as provided by Section 9-3-10.1, Code of Alabama, 1975 and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Finance Director and approved by the Governor.

Total Emergency Forest Fire Fund .....	180,000	180,000
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#### 19. GOVERNOR'S CONFERENCE, NATIONAL:

(a) Executive Direction Program, Estimated .....	165,230
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#### SOURCE OF FUNDS:

(1) State General Fund .....	165,230
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Total National Governor's Conference .....	165,230	165,230
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#### 20. GOVERNOR'S COUNCIL-LOR:

(a) Executive Direction Program, Estimated .....	26,000
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#### SOURCE OF FUNDS:

(1) State General Fund .....	26,000
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As provided in Section 36-13-13,  
Code of Alabama 1975.

Total Governor's Councillor .....	26,000	26,000
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**21. GOVERNOR'S PROCLAMATION EXPENSES:**

(a) Executive Direction Program, Estimated .....		200,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	200,000	
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As provided in Section 17-14-21,  
Code of Alabama 1975.

Total Governor's Proclamation Expenses .....	200,000	200,000
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**22. GOVERNOR'S WIDOWS RETIREMENT:**

(a) Executive Direction Program, Est. ....		28,800
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**SOURCE OF FUNDS:**

(1) State General Fund .....	28,800	
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As provided in Section 36-13-12,  
Code of Alabama 1975.

Total Governor's Widows Retirement .....	28,800	28,800
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**23. LAW ENFORCEMENT FUND:**

(a) Criminal Investigation Pro- gram, Estimated .....		18,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....		18,000
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As provided in Section 28-4-312,  
Code of Alabama 1975.

Total Law Enforcement Fund .....	18,000	18,000
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**24. LAW ENFORCEMENT LEGAL DEFENSE:**

(a) Legal Advice and Legal Ser- vices Program, Estimated .....		3,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	3,000	
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To carry out provisions of Section  
36-21-1, Code of Alabama 1975.

Total Law Enforcement Legal Defense .....	3,000	3,000
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25. LIABILITY TRUST FUND,  
FINANCE-GENERAL:

(a) Administrative Support Serv- ices Program .....	332,311
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SOURCE OF FUNDS:

(1) General Liability Trust Fund- Administration .....	332,311
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Total Finance-General Liability Trust Fund .....	332,311	332,311
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26. MAILING TAX NOTICES:

(a) State Revenue Administration Program, Estimated .....	100
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SOURCE OF FUNDS:

(1) State General Fund .....	100
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As provided in Section 40-7-25,  
Code of Alabama 1975.

Total Mailing Tax Notices .....	100	100
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27. MILITARY-EMERGENCY  
ACTIVE DUTY PAY:

(a) Military Operations Program, Estimated .....	200,000
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SOURCE OF FUNDS:

(1) State General Fund .....	200,000
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As provided in Section 31-2-85,  
Code of Alabama 1975.

Total Military-Emergency Active Duty Pay .....	200,000	200,000
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28. PRESIDENTIAL ELEC-  
TORAL EXPENSE:

(a) Administrative Support Serv- ices Program, Estimated .....	2,000
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SOURCE OF FUNDS:

(1) State General Fund .....	2,000
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As provided in Section 17-19-8,  
Code of Alabama 1975.

Total Presidential Electoral Expense .....	2,000	2,000
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**29. PRINTING OF CODE SUPPLEMENTS-LEGISLATIVE REFERENCE SERVICE:**

(a) Legislative Operations and Support Program, Estimated ....		300,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	300,000	
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As provided in Section 29-7-6, Code  
of Alabama 1975.

Total Printing of Code Supple- ments-Legislative Reference Service .....	300,000	300,000
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**30. PRINTING CODES AND SUPPLEMENTS-SECRETARY OF STATE:**

(a) Administrative Support Serv- ices Program, Estimated .....		165,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	165,000	
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As provided in Sections 41-21-1  
and 41-21-154, Code of Alabama  
1975.

Total Printing Codes and Supple- ments-Secretary of State .....	165,000	165,000
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**31. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:**

(a) Administrative Support Serv- ices Program, Estimated .....		500,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	500,000	
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As provided in Sections 41-4-130  
through 41-4-161, Code of Ala-  
bama 1975.

Total Printing of Legislative Acts and Journals .....	500,000	500,000
32. PRINTING OF STATE AND COUNTY PRIVILEGE LI- CENSES:		
(a) State Revenue Administration Program, Estimated .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	25,000	
Total Printing of State and County Privilege Licenses .....	25,000	25,000
33. REGISTRATION OF VOT- ERS:		
(a) Special Services Program, Estimated .....		1,550,000
SOURCE OF FUNDS:		
(1) State General Fund, Estimated .....	1,550,000	
In accordance with Sections 17-4- 126 and 17-4-153, Code of Ala- bama 1975.		
Total Registration of Voters .....	1,550,000	1,550,000
34. REMOVAL OF PRIS- ONERS:		
(a) Administrative Services and Logistical Support Program, Estimated .....		350,000
SOURCE OF FUNDS:		
(1) State General Fund .....	350,000	
As provided in Sections 15-10-70 through 15-10-73 and 15-9-62, 15-9-65, and 15-9-81, Code of Alabama 1975.		
Total Removal of Prisoners .....	350,000	350,000
35. STATE GENERAL FUND, ESTIMATED .....		56,000,000
SOURCE OF FUNDS:		
(1) Heritage Trust Income Fund Transfer, Estimated .....	56,000,000	
All income other than income re- alized on sale of Trust Fund		

assets and not otherwise appropriated herein.

Total State General Fund, Estimated .....	56,000,000	56,000,000
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36. STATE TREASURER-PREVIOUS YEAR'S UNPAID WARRANTS:

(a) Special Services Program, Estimated .....		200,000
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SOURCE OF FUNDS:

(1) State General Fund .....	200,000	
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As provided in Section 41-4-60,  
Code of Alabama 1975.

Total State Treasurer-Previous Year's Unpaid Warrants .....	200,000	200,000
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2E. DEBT SERVICE FUNDED FROM THE STATE GENERAL FUND:

1. General Obligation Capital Improvement Bonds, Series B, Estimated .....		1,114,250
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,114,250	
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Total General Obligation Capital Improvement Bonds, Series B, Estimated .....	1,114,250	1,114,250
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2. General Obligation Coosa Waterway Bonds, Series A and B, Estimated .....		1,012,260
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	1,012,260	
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Total General Obligation Coosa Waterway Bonds, Series A and B, Estimated .....	1,012,260	1,012,260
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3. General Obligation Docks Facilities Bonds, Series A-C, Estimated .....		5,404,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer	5,404,000	
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Total General Obligation Docks Facilities Bonds, Series A-C, Estimated .....	5,404,000	5,404,000
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4. Music Hall of Fame Bonds, Estimated .....		353,745
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SOURCE OF FUNDS:

(1) State General Fund-Transfer, Estimated .....	353,745	
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Pursuant to Constitutional  
Amendment No. 489 as pro-  
vided in Act No. 88-549, 1988  
Regular Session.

Total Music Hall of Fame Bonds, Estimated .....	353,745	353,745
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5. Tennessee-Tombigbee Water- way Bonds, Series C and D, Estimated .....		2,756,985
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SOURCE OF FUNDS:

(1) State General Fund-Transfer, Estimated .....	2,756,985	
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Pursuant to Constitutional  
Amendment No. 270 as pro-  
vided in Act No. 248, 1967 Reg-  
ular Session.

Total Tennessee-Tombigbee Waterway Bonds, Series C and D, Estimated .....	2,756,985	2,756,985
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6. Corrections Institution Bonds, Estimated .....		1,672,000
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SOURCE OF FUNDS:

(1) State General Fund-Transfer, Estimated .....	1,672,000	
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Pursuant to Constitutional  
Amendment No. 374 as pro-  
vided for in Act No. 134, 1978  
Second Special Session.

Total Corrections Institution Bonds, Estimated .....	1,672,000	1,672,000
7. General Obligation Capital Bonds, 1982, Series A and B, and General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....		58,152,678
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund-Transfer .....	58,152,678	
Total General Obligation Capital Bonds, 1982, Series A and B, and General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....	58,152,678	58,152,678

**SECTION 3.** That, except as may be herein otherwise provided, amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Sections 5 and 6 of this bill, as provided in the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975, and those appropriations herein made, except appropriations to the Alabama Alcoholic Beverage Control Board for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Sections 41-4-80 et seq., Code of Alabama 1975, and the Budget Management Act of 1976, Sections 41-19-1 et seq., Code of Alabama 1975.

**SECTION 4.** That any surplus remaining in any appropriation herein made from the State General Fund to any office, department, bureau, board, commission or agency may be transferred, on order of the Governor, to any other appropriation herein made from the State General Fund when such appropriation to any office, department, bureau, board, commission, or agency is insufficient to pay salaries in that office, department, bureau, board, commission or agency.

**SECTION 5.** In addition to appropriations herein made, all gifts, grants, contributions, or entitlements, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which

the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

**SECTION 6.** All interest earned from funds paid into Account No. 305735 by Act 87-761, Act 88-947 and Act 89-79 are hereby appropriated to the Governor's Contingency Fund to be spent at the discretion of the Governor. Any other interest earned by the state from Revenue Sharing Investments under the State and Local Fiscal Assistance Act of 1972, as amended, Public Law 92-512, 92nd Congress, together with any accruals or reversions thereon are hereby appropriated to the State General Fund.

**SECTION 7.** All encumbered balances of a previous fiscal year appropriation other than the exclusions authorized in Section 41-4-93, Code of Alabama 1975, shall lapse on September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the State General Fund or earmarked fund from which the appropriation or appropriations were made.

**SECTION 8.** The appropriations made herein to the departments, boards, offices, commissions, and agencies include the amounts necessary and said departments, boards, offices, commissions, and agencies are hereby directed to make the transfer of funds to the State Personnel Department in said amounts enumerated in Section 2C, subsection 104.

**SECTION 9.** That, if any section, paragraph, sentence, clause, provision, or portion of this Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

**SECTION 10.** That all laws and parts of laws, general, special, private, or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

**SECTION 11.** That each Department of the State funded through the provisions of this budget shall provide an equal opportunity for employment and business opportunities for all citizens of this state without regard to sex or race.

**SECTION 12.** That this Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:22 P.M.

Act No. 90-765

H. 190—Rep. Harper

## AN ACT

To make appropriations for the support and maintenance of Tuskegee University for the fiscal year ending September 30, 1991, and to make an appropriation for a one-time matching grant for an eminent scholars chair for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of three million nine hundred thousand dollars (\$3,900,000), out of the funds in the Alabama Special Educational Trust Fund, to Tuskegee University located at Tuskegee, Alabama, to be used for the support and maintenance of said school.

(b) There is hereby appropriated in addition to any and all other appropriations made for the fiscal year ending September 30, 1990, the sum of four hundred thousand dollars (\$400,000), out of the funds in the Alabama Special Educational Trust Fund, to Tuskegee University located at Tuskegee, Alabama, to be used for a one-time matching grant for an eminent scholars chair to support the academic program of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law; provided, however, the provisions of subsection (a) of Section 1 shall become effective October 1, 1990.

Approved May 3, 1990

Time: 6:23 P.M.

Act No. 90-766

H. 196—Rep. Harper

## AN ACT

To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1991, and to require an operations plan and audited financial statement prior to release of any funds.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the fiscal year ending September 30, 1991, the sum of one million nine hundred fifty-seven thousand one hundred twenty-five dollars (\$1,957,125), out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

(a) Butler County Training School for the Mentally Retarded in Greenville	30,000
(b) Hope Haven School in Colbert County	40,000
(c) Montgomery Institute of Neurological Development	35,000
(d) Birmingham Training Center for Brain-Injured Children	50,000
(e) Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled	60,000
(f) Alice Pigman School	125,000
(g) Geneva County Day Care and Training Center	60,000
(h) McGraw Activity Center	60,000
(i) Dallas County Day Care and Training Center	60,000
(j) Calhoun County Community—"EDUCATION PAR EXCELLENCE"	100,000
(k) North Talladega County Association for Retarded Citizens, Inc.	30,000
(l) South Talladega County Association for Retarded Citizens, Inc.	30,000
(m) ECHO FOUNDATION	25,000
(n) Vivian B. Adams School	284,625
(o) McInnis School of Montgomery	439,000
(p) Alan Cott School	103,500
(q) Children's Hands-On Museum in Tuscaloosa	100,000
(r) Madison County Opportunities Center	50,000

(s) Madison Park Hope Center	20,000
(t) Dee Day School-Cherokee County	30,000
(u) Clay County Learning Center-Clay County	30,000
(v) Jackson-DeKalb County Special School for the Retarded at Northeast Junior College	50,000
(w) Valley Haven School	60,000
(x) Russellville City School for Multi- Handicapped Children	40,000
(y) Trinity Presbyterian School	10,000
(z) North Alabama Education Opportunities Center	10,000
(aa) Governor's School at Samford University	25,000

**Section 2.** Prior to release of any funds appropriated under this bill for fiscal year 1990-91, an operations plan for fiscal year 1990-91 and an audited financial statement for all operations during fiscal year 1988-89 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1990-91 funds following receipt of these reports.

**Section 3.** The provisions of this act are severable. If any section, paragraph, clause, provision, or item of this act be held unconstitutional, such declaration shall not affect any portion that remains.

**Section 4.** This Act shall become effective on October 1, 1990.

Approved May 3, 1990

Time: 6:24 P.M.

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Act No. 90-767

H. 471—Reps. Flowers and White (L)

# AN ACT

To amend Section 27-5-12, Code of Alabama 1975, relating to reinsurance, so as to increase and redefine those types of reinsuring entities for which insurers will be allowed credit for reinsurance ceded.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 27-5-12, Code of Alabama 1975, is hereby amended to read as follows:

“§27-5-12.

“(a) An insurer authorized under this title may accept reinsurance only of such risks and retain risk thereon within such limits as it is otherwise authorized to insure.

“(b)(1) An insurer authorized under this title may reinsure all, or any part, of any particular risk with any solvent insurer.

“(2) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

“a. The reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state; or

“b. The reinsurance is ceded to an assuming insurer which is domiciled and licensed in or in the case of a U. S. branch of an alien assuming insurer is entered through a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and such assuming insurer or U. S. branch of an alien assuming insurer: (i) maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and (ii) submits to the authority of this state to examine its books and records. Provided, however, that the requirement of item (i) of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; or

“c. The reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in paragraph a of subdivision (4), for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and,

in addition, the group shall maintain a trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers reinsured by any member of the group; and the group shall make available to the commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter.

"The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; or

"d. The reinsurance is ceded to an assuming insurer not meeting the requirements of paragraphs a, b or c, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

"e. If the assuming insurer is not licensed to transact insurance in this state, the credit permitted by paragraphs a, b and c of subdivision (2) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

"(1) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

"(2) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.

"This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

"(3) A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subdivision 2 of this subsection shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such

reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (4).

“This security may be in the form of:

“a. Cash;

“b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;

“c. Clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution as defined in subdivision (4) no later than December 31, in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement.

“As used herein, ‘clean’ means that the letter of credit is not conditioned on the delivery of any other documents or materials. ‘Irrevocable’ means that the letter of credit cannot be modified or revoked without the consent of the beneficiary, once the beneficiary is established.

“Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institutions’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

“d. Any other form of security acceptable to the commissioner.

“(4) a. For purposes of paragraph c of subdivision (3), a ‘qualified United States financial institution’ means an institution that:

“1. Is organized or (in the case of a U. S. office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

“2. Is regulated, supervised and examined by U. S. federal or state authorities having regulatory authority over banks and trust companies; and

“3. Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and

standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

“b. A ‘qualified United States financial institution’ means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

“1. Is organized, or (in the case of a U. S. branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

“2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

“(5) No credit shall be allowed to any ceding insurer for reinsurance placed with a reinsurer qualified under this act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

“(c) Upon request of the commissioner, an insurer shall promptly inform the commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

“(d) This section shall not apply to wet marine and transportation insurance.”

**Section 2.** The commissioner may adopt rules and regulations implementing the provisions of this act.

**Section 3.** Subsection (b), (1) through (5), of this amendatory act shall apply to all cessions after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six months after the effective date of this act.

**Section 4.** If any provision of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 6:25 P.M.

Act No. 90-768

H. 46—Rep. Johnson (RW)

## AN ACT

To provide further for disbursement by the department of human resources of the amount of child support payments received by it that is due the child's custodian.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any child support payments made directly to the state department of human resources, including the state and county departments, under any and all of its child support programs and other child support programs administered by it, including such programs administered pursuant to the requirements of Title IV-D of the Social Security Act or any such payments made through the state department of revenue under setoff debt collection provisions of article 3, chapter 18, Title 40, Code of Alabama 1975, and any such payments, or any portion thereof, are due to be disbursed to the child's custodian, the department of human resources receiving such payment shall within five working days after the day of its receipt make remittance of the amount due by mailing it to the child's custodian.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 4:15 P.M.

Act No. 90-769

H. 391—Rep. Grouby

## AN ACT

To allow survivors of the attack on Pearl Harbor to purchase distinctive motor vehicle license plates or tags; to prohibit the transfer of such plates; to prescribe the manner of charging for such license plates or tags; and to provide for the duties and powers of the commissioner of revenue and the probate judge or license commissioner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any person who was a member of the United States Armed Forces on December 7, 1941, was on station or offshore at a

distance not to exceed three miles, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, during the attack on the Island of Oahu, Territory of Hawaii, and received an honorable discharge from the United States Armed Forces may, upon application and subject to the provisions of this act, be issued distinctive motor vehicle license plates or tags identifying said persons as Pearl Harbor Survivors.

**Section 2.** Said license plates shall be of a design to be prescribed by the commissioner of revenue, provided said plates shall bear the words "Pearl Harbor Survivor" and prominently display the seal of the Pearl Harbor Survivors Association. The distinctive license plates shall be prepared by the commissioner of revenue and shall be issued through the probate judge or license commissioner of the several counties of the state in like manner as are other motor vehicle license plates or tags, and such officers shall be entitled to their regular fees for such service. Applicants for such distinctive plates shall present to the issuing official such proof as required by the commissioner of revenue that the qualification requirements of this act are met. When such applicant presents proof satisfactory to the commissioner, the applicant shall be issued the requested number of distinctive license plates or tags upon the payment of the regular license fee for tags, as provided by law, and the additional payment of a fee of \$3.00 for each plate issued. Said applicant shall pay the additional \$3.00 fee for each license plate issued in the future, however in those years in which a decal is issued said applicant shall pay the regular license fees for tags, as provided by law. The distinctive license plates or tags so issued shall be used only upon and for personally-owned, private passenger vehicles (to include station wagons and pick-up trucks) registered in the name of the person making application therefor, and when so issued to such applicant shall be used upon the vehicle for which issued in lieu of the standard license plates or license tags normally issued for such vehicle.

**Section 3.** The distinctive license plates issued pursuant to this act shall not be transferable as between motor vehicle owners, and in the event the owner of a vehicle bearing such distinctive plates shall sell, trade, exchange or otherwise dispose of same, such plates shall be retained by the owner to whom issued and by him returned to the probate judge or license commissioner of the county, who shall receive and account for same in the manner stated below. In the event such owner shall acquire by purchase, trade, exchange or otherwise a vehicle for which no standard plates have been issued during the current license period, the probate judge or license commissioner of the county shall, upon being furnished by the owner thereof proper certification of the acquisition of such vehicle and the payment of the motor vehicle license tax due upon such vehicle, authorize the transfer to said vehicle of the distinctive license plates previously purchased by such owner, which plates shall authorize the



operation of said vehicle for the remainder of the then current license period. In the further event the owner of such distinctive plates shall acquire by purchase, trade, exchange or otherwise a vehicle for which standard plates have been issued during the current license year, the probate judge or license commissioner shall, upon proper certification of such owner and upon delivery to such official of the standard plates previously issued for such vehicle, authorize the owner of such newly- acquired vehicle to place the distinctive plates previously purchased by him upon such vehicle and use same thereon for the remainder of the then current license period. Such notice of transfer of ownership shall be made of record by the probate judge or the license commissioner.

Any person acquiring by purchase, trade, exchange or otherwise any vehicle formerly bearing such distinctive plates shall be authorized, upon certification of such fact to the probate judge or license commissioner of the county and the payment of the fee now required by law, to purchase standard replacement plates for such vehicle which shall authorize the operation of such vehicle by the new owner for the remainder of the license period.

**Section 4.** Such distinctive plates or tags shall be prepared and furnished for the licensing year commencing October 1, 1989, and thereafter as is provided by law for the issuance of other license plates.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** The provisions of this act shall be construed to be cumulative to any laws or parts of laws relating to motor vehicle license plates or distinctive license plates.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:16 P.M.

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Act No. 90-770

H. 245—Rep. Harper

## AN ACT

To make an appropriation for the support of the Alabama Writing Project for the fiscal year ending September 30, 1991.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1991, there is hereby appropriated one hundred twenty thousand dollars (\$120,000) from the Alabama Special Educational Trust Fund to be used for the support of the Alabama Writing Project to be distributed as follows:

Jacksonville State University .....	40,000
Troy State University .....	40,000
Auburn University .....	40,000

**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective October 1, 1990.

Approved May 3, 1990

Time: 4:17 P.M.

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Act No. 90-771

H. 421—Rep. Harper

AN ACT

To make a supplemental appropriation from the Alabama Special Educational Trust Fund to the Educational Television Commission for the fiscal year ending September 30, 1990 for capital outlay purposes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Educational Television Commission the sum of Five hundred thousand dollars (\$500,000) out of the funds in the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1990 for capital outlay purposes to assist in renovating the Montgomery television production facility and to insure the ability to receive Alabama Public Television by all the citizens of Russell County, Alabama before September 30, 1990.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:19 P.M.

Act No. 90-772

H. 555—Rep. Harper

## AN ACT

To make a supplemental appropriation from the State General Fund to the Bureau of Tourism and Travel for the Gulf of Mexico Seafood Culinary Competition for the fiscal year ending September 30, 1990.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any funds heretofore or hereafter appropriated, there is hereby appropriated to the Bureau of Tourism and Travel for the Gulf of Mexico Seafood Culinary Competition the sum of Twenty-five thousand dollars (\$25,000) out of the funds in the State General Fund for the fiscal year ending September 30, 1990.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1990

Time: 4:25 P.M.

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

March 6, 1990

**ORDER**

IT IS HEREBY ORDERED that Rule 11(a)(3), Alabama Rules of Appellate Procedure, be, and it hereby is, amended to read in accordance with Appendix A, which is attached to this order and made a part hereof;

IT IS FURTHER ORDERED that this amendment shall be effective June 1, 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 17th day of May, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 12, 1990

**ORDER**

WHEREAS, this Court's Standing Committee on Alabama Rules of Civil Procedure has recommended the adoption of an amendment to Rule 33(a); and

WHEREAS, this Court deems it appropriate to adopt that amendment;

IT IS ORDERED that Rule 33(a), Alabama Rules of Civil Procedure, be amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall become effective October 1, 1990.

DONE AND ORDERED this 12th day of June 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 18th day of June, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 12, 1990

**ORDER**

WHEREAS, the Supreme Court's Standing Committee on Alabama Rules of Civil Procedure has submitted a proposed amendment to Rule 40, Alabama Rules of Civil Procedure, relating to inter-circuit calendar conflicts; and

WHEREAS, the Court has considered the proposed amendment and deems it appropriate to adopt that amendment;

NOW, THEREFORE, IT IS ORDERED that Rule 40, Alabama Rules of Civil Procedure, be, and it hereby is, amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall be effective August 1, 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 12, 1990

**ORDER**

WHEREAS, the Truancy Task Force, a subcommittee of the Interagency Committee on Youth, has recommended the adoption of an amendment to Rule 15, Alabama Rules of Juvenile Procedure; and

WHEREAS, this Court deems it appropriate to adopt that amendment;

IT IS ORDERED that Rule 15, Alabama Rules of Juvenile Procedure, be amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall become effective August 1, 1990.

DONE AND ORDERED this 12th day of June 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 19th day of June, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 12, 1990

**ORDER**

IT IS HEREBY ORDERED that Rule 39(a), Alabama Rules of Appellate Procedure, be, and it hereby is, amended to read in accordance with the appendix, which is attached to this order and made a part hereof.

IT IS FURTHER ORDERED that this amendment shall be effective August 1, 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 27th day of June, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 18, 1990

**ORDER**

IT IS ORDERED that the order of this Court of June 12, 1990, is amended to read as follows:

WHEREAS, the Ad Hoc Subcommittee of the Bench/Bar Relations Committee has submitted a proposed Rule 38, Alabama Rules of Judicial Administration, relating to lawyer calendar conflicts; and

WHEREAS, the Court has considered the proposed rule and deems it appropriate to adopt that rule;

NOW, THEREFORE, IT IS ORDERED that Rule 38, Alabama Rules of Judicial Administration, be, and it hereby is, adopted to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this Rule 38 shall be effective August 1, 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 18th day of June, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

June 18, 1990

**ORDER**

IT IS ORDERED that the order of this Court of June 12, 1990, is amended to read as follows:

WHEREAS, the Supreme Court's Standing Committee on Alabama Rules of Civil Procedure has submitted a proposed amendment to Rule 40, Alabama Rules of Civil Procedure, relating to lawyer calendar conflicts; and

WHEREAS, the Court has considered the proposed amendment and deems it appropriate to adopt that amendment;

NOW, THEREFORE, IT IS ORDERED that Rule 40, Alabama Rules of Civil Procedure, be, and it hereby is, amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall be effective August 1, 1990.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 18th day of June, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 10, 1990

**ORDER**

IT IS HEREBY ORDERED that Rule 12(E), Alabama Rules of Juvenile Procedure, be, and it hereby is, amended to read as follows:

“(E) In cases of the violation of a law or ordinance relating to the operation of a motor vehicle by a child under the age of sixteen (16), the issuance of a traffic citation or summons shall be sufficient to invoke the jurisdiction of the court.

“(Amended effective July 1, 1990.)”

IT IS FURTHER ORDERED that this amendment shall be effective July 1, 1990.

Hornsby, C. J., and Jones, Almon, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 19th day of July, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 10, 1990

**ORDER**

WHEREAS, the Standing Committee on Alabama Rules of Civil Procedure has recommended to the Court a proposed amendment to Rule 60(b), Alabama Rules of Civil Procedure; and



WHEREAS, the Court has considered the proposed amendment and deems it appropriate to approve the amendment;

NOW, THEREFORE, IT IS HEREBY ORDERED that Rule 60(b), Alabama Rules of Civil Procedure, be, and it is hereby, amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall become effective October 1, 1990.

Hornsby, C. J., and Jones, Almon, Shores, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 19th day of July, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 10, 1990

**ORDER**

WHEREAS, this Court on June 12, 1990, adopted Rule 38, Alabama Rules of Judicial Administration, relating to lawyer calendar conflicts; and

WHEREAS, this Court on June 18, 1990, amended its order of June 12, 1990, relating to Rule 38;

NOW, THEREFORE, IT IS ORDERED that this Court's order of June 12, 1990, adopting Rule 38 of the Alabama Rules of Judicial Administration, and this Court's order of June 18, 1990, amending that June 12, 1990, order, be, and they hereby are, rescinded.

Jones, Almon, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 25th day of July, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 10, 1990

**ORDER**

IT IS ORDERED that the order of this Court of June 18, 1990, is amended to read as follows:

WHEREAS, the Supreme Court's Standing Committee on Alabama Rules of Civil Procedure has submitted a proposed amendment to Rule 40, Alabama Rules of Civil Procedure, relating to lawyer calendar conflicts; and

WHEREAS, the Court has considered the proposed amendment and deems it appropriate to adopt that amendment;

NOW, THEREFORE, IT IS ORDERED that Rule 40, Alabama Rules of Civil Procedure, be, and it hereby is, amended to read in accordance with the appendix to this order.

IT IS FURTHER ORDERED that this amendment shall be effective August 1, 1990.

Hornsby, C. J., and Jones, Almon, Adams, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 26th day of July, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 10, 1990

**ORDER**

WHEREAS, the Board of Commissioners of the Alabama State Bar has recommended certain amendments to the Alabama Rules of Disciplinary Procedure (Interim); and

WHEREAS, the Court has considered the Board's proposed amendments;

IT IS, THEREFORE, ORDERED that Rule 20(a) and 20(c) of the Alabama Rules of Disciplinary Procedure (Interim) be amended to read as follows:

“(a) Grounds for Suspension

“On petition of the General Counsel, supported by an affidavit demonstrating facts personally known to affiant, showing that a lawyer has been convicted of a serious crime, as defined in Rule 8 of these Rules, or that the lawyer’s continuing conduct is causing or is likely to cause immediate and serious injury to a client or to the public, the Disciplinary Commission may issue an order temporarily suspending the lawyer, a copy of which will be immediately filed with the Alabama Supreme Court by the General Counsel.”

“(c) Termination of Interim Suspension

“A suspension must be terminated by the Disciplinary Commission:

- (1) Upon reversal or vacation of the judgment of conviction that gave rise to the suspension;
- (2) Upon the effective date of the order of final discipline;
- (3) Upon transfer to disability inactive status;
- (4) Upon dissolution of the order of suspension by the Disciplinary Board, the Disciplinary Commission, or the Alabama Supreme Court; or
- (5) Upon failure of the General Counsel to file formal charges within twenty-eight (28) days after the date of interim suspension.”

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 30, 1990

**ORDER**

IT IS ORDERED that this Court’s June 12, 1990, amendment to Rule 12, Alabama Rules of Juvenile Procedure, which becomes effective August 1, 1990, shall have no effect except as to the amendment made to Rule 12(C).

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of August, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

July 30, 1990

**ORDER**

This Court's order of July 10, 1990, amending Rule 20(a) and 20(c), Alabama Rules of Disciplinary Procedure (Interim), is hereby rescinded.

Hornsby, C. J., and Jones, Almon, Shores, Adams, Houston, and Steagall, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of August, 1990.

ROBERT. G. ESDALE,  
Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA — JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

August 28, 1990

**ORDER**

WHEREAS, on October 4, 1989, this Court adopted an order, which, inter alia, amended Rule 83, Alabama Rules of Civil Procedure, relating to the promulgation of local rules by the circuit courts; ordered that all local rules and administrative orders dealing with civil practice in circuit courts were to be null and void as of September 1, 1990, unless expressly approved by this Court in accordance with that order or with amended Rule 83; and required submission of copies of all procedures relating to civil practice to this Court by December 1, 1989; and

WHEREAS, the Civil Rules Advisory Committee's subcommittee on local rules has reviewed the local rules and administrative orders that were submitted to this Court; and

WHEREAS, that subcommittee has requested that this Court extend the deadline in its October 4, 1989, order from September 1, 1990, to January 1, 1991;

IT IS HEREBY ORDERED that the deadline of September 1, 1990, in this Court's October 4, 1989, order be extended to January 1, 1991.

Hornsby, C. J., and Maddox, Jones, Almon, Shores, Houston, Steagall, and Kennedy, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 10th day of September, 1990.

ROBERT G. ESDALE,  
Clerk, Supreme Court of Alabama

**1980 Commissioners Standard Ordinary Mortality Table**  
**Basic Value 6.00%**  
**Age Near Birthday**  
**Male**

AGE A	L	$d_{x+1}$	1000q <sub>x</sub>	$\frac{1}{L}$	$U^x$	AGE A
0	10 000 000	41 800	4.18	70.83	1.000 000 00	0
1	9 958 200	10 853	1.07	70.13	.999 998 23	1
2	9 947 845	9 848	.99	69.20	.999 996 44	2
3	9 927 897	9 739	.98	68.27	.999 991 28	3
4	9 927 958	9 439	.95	67.34	.999 983 86	4
5	9 918 826	9 827	.98	66.40	.999 975 17	5
6	9 908 598	8 822	.88	65.46	.999 964 64	6
7	9 901 077	7 821	.78	64.52	.999 951 11	7
8	9 893 158	7 518	.75	63.57	.999 935 77	8
9	9 885 837	7 215	.72	62.62	.999 918 46	9
10	9 878 322	7 111	.71	61.68	.999 899 18	10
11	9 871 111	7 601	.76	60.71	.999 877 83	11
12	9 864 810	8 284	.83	59.75	.999 854 46	12
13	9 858 128	9 757	.98	58.80	.999 829 07	13
14	9 851 268	11 322	1.15	57.86	.999 801 68	14
15	9 844 047	13 078	1.32	56.93	.999 771 32	15
16	9 836 588	14 820	1.49	56.00	.999 738 99	16
17	9 828 138	16 559	1.67	55.08	.999 704 72	17
18	9 818 782	17 428	1.76	54.18	.999 668 54	18
19	9 808 528	18 177	1.86	53.27	.999 630 47	19
20	9 797 378	18 532	1.90	52.37	.999 590 61	20
21	9 785 326	18 595	1.89	51.47	.999 549 07	21
22	9 772 371	18 385	1.88	50.57	.999 505 98	22
23	9 758 518	18 040	1.86	49.66	.999 461 35	23
24	9 743 868	17 618	1.82	48.75	.999 416 18	24
25	9 728 422	17 104	1.78	47.84	.999 369 50	25
26	9 712 188	16 507	1.72	46.93	.999 321 32	26
27	9 695 168	16 868	1.71	46.01	.999 271 65	27
28	9 677 362	16 468	1.70	45.09	.999 220 50	28
29	9 658 772	16 342	1.70	44.18	.999 167 87	29
30	9 639 408	16 410	1.72	43.24	.999 113 78	30
31	9 619 272	16 573	1.73	42.31	.999 058 24	31
32	9 598 372	17 027	1.78	41.38	.998 991 28	32
33	9 576 718	17 470	1.83	40.45	.998 922 91	33
34	9 554 312	18 200	1.91	39.54	.998 853 24	34
35	9 531 152	19 021	2.00	38.61	.998 782 38	35
36	9 507 238	20 028	2.24	37.69	.998 710 32	36
37	9 482 572	21 217	2.40	36.78	.998 637 07	37
38	9 457 152	22 881	2.48	35.86	.998 562 64	38
39	9 430 978	24 744	2.79	34.96	.998 487 04	39
40	9 404 052	26 238	3.02	34.05	.998 410 28	40
41	9 376 372	28 319	3.28	33.15	.998 332 38	41
42	9 347 938	30 173	3.56	32.26	.998 253 34	42
43	9 318 752	33 173	3.87	31.38	.998 173 18	43
44	9 288 812	35 822	4.19	30.50	.998 091 91	44
45	9 258 118	41 807	4.55	29.62	.998 008 54	45
46	9 226 672	45 108	4.92	28.78	.997 924 07	46
47	9 194 478	48 536	5.28	27.94	.997 838 50	47
48	9 161 528	52 089	5.74	27.10	.997 751 84	48
49	9 127 822	55 021	6.21	26.26	.997 664 18	49
50	9 093 368	60 168	6.71	25.42	.997 575 52	50
51	9 058 158	65 017	7.30	24.58	.997 485 87	51
52	9 022 192	70 378	7.88	23.70	.997 395 22	52
53	8 985 372	76 386	8.51	22.88	.997 303 57	53
54	8 947 698	83 121	9.56	22.08	.997 210 92	54
55	8 909 162	90 182	10.47	21.29	.997 117 27	55
56	8 869 772	97 653	11.46	20.51	.997 022 62	56
57	8 829 528	105 212	12.49	19.74	.996 927 07	57
58	8 788 432	113 049	13.39	18.99	.996 830 52	58
59	8 746 488	121 185	14.77	18.25	.996 732 97	59
60	8 703 692	129 895	15.08	17.51	.996 634 42	60
61	8 659 048	138 518	17.54	16.78	.996 534 87	61
62	8 613 552	147 865	18.19	16.05	.996 434 32	62
63	8 567 208	161 420	21.06	15.32	.996 332 77	63
64	8 519 012	173 828	22.14	14.60	.996 230 22	64
65	8 469 868	186 322	22.42	14.04	.996 126 67	65
66	8 419 772	198 944	23.78	13.38	.996 022 12	66
67	8 368 728	211 390	30.44	12.76	.995 917 57	67
68	8 316 732	223 471	32.18	12.14	.995 812 02	68
69	8 263 888	235 453	36.17	11.54	.995 706 47	69
70	8 209 192	247 892	39.51	10.96	.995 600 92	70
71	8 153 648	260 827	43.30	10.38	.995 494 37	71
72	8 097 252	274 718	47.65	9.84	.995 387 82	72
73	8 040 008	289 026	52.64	9.30	.995 280 27	73
74	7 981 912	302 680	55.89	8.78	.995 171 72	74
75	7 922 968	316 481	61.4	8.25	.995 062 17	75
76	7 863 172	332 341	70.53	7.84	.994 951 62	76
77	7 802 528	348 818	77.12	7.40	.994 840 07	77
78	7 741 032	366 818	86.00	6.97	.994 728 52	78
79	7 678 688	386 012	95.18	6.57	.994 615 97	79
80	7 615 492	406 358	101.05	6.18	.994 503 42	80
81	7 551 348	427 881	117.78	5.80	.994 390 87	81
82	7 486 252	450 584	125.28	5.44	.994 278 32	82
83	7 420 208	474 488	133.28	5.09	.994 165 77	83
84	7 353 212	499 600	142.35	4.77	.994 053 22	84
85	7 285 268	525 928	152.95	4.46	.993 940 67	85
86	7 216 272	553 480	164.28	4.18	.993 828 12	86
87	7 146 328	582 252	176.99	3.91	.993 715 57	87
88	7 075 432	612 252	190.28	3.66	.993 603 02	88
89	7 003 588	643 488	204.28	3.41	.993 490 47	89
90	6 930 792	675 952	219.00	3.18	.993 377 92	90
91	6 857 048	710 652	234.88	2.97	.993 265 37	91
92	6 782 352	747 600	252.45	2.78	.993 152 82	92
93	6 706 708	786 800	272.11	2.54	.993 040 27	93
94	6 630 112	828 252	293.80	2.31	.992 927 72	94
95	6 552 568	872 952	318.00	2.11	.992 815 17	95
96	6 474 072	920 000	345.00	1.87	.992 702 62	96
97	6 394 628	969 500	375.00	1.64	.992 590 07	97
98	6 314 232	1 021 500	400.00	1.41	.992 477 52	98
99	6 232 888	1 075 000	440.00	1.18	.992 364 97	99

Description of meaning of codes on CSO Table

lx = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

**1980 Commissioners Standard Ordinary Mortality Table**  
**Basic Value 6.00%**  
**Age Near Birthday**  
**Female**

AGE x	$L_x$	$d_x$	$1000q_x$	$e_x$	$U^x$	AGE x
0	10 000 000	28 800	2.88	75.83	1.000 000 00	0
1	9 971 100	8 478	.85	75.04	.999 999 23	1
2	9 962 425	8 070	.81	74.11	.999 998 41	2
3	9 954 355	7 884	.79	73.17	.999 997 58	3
4	9 946 481	7 859	.78	72.23	.999 996 76	4
5	9 938 832	7 854	.78	71.28	.999 995 94	5
6	9 931 278	7 850	.77	70.34	.999 995 11	6
7	9 924 028	7 845	.77	69.39	.999 994 29	7
8	9 916 883	8 842	.70	68.44	.999 993 46	8
9	9 908 841	8 838	.69	67.48	.999 992 64	9
10	9 903 103	8 734	.68	66.53	.999 991 81	10
11	9 898 268	8 628	.68	65.58	.999 990 99	11
12	9 893 841	7 120	.62	64.62	.999 989 16	12
13	9 889 421	7 412	.76	63.67	.999 988 34	13
14	9 885 206	8 000	.80	62.71	.999 987 51	14
15	9 881 098	8 387	.85	61.76	.999 986 69	15
16	9 877 222	8 873	.90	60.82	.999 985 86	16
17	9 873 588	9 257	.95	59.87	.999 985 04	17
18	9 870 321	9 844	1.02	58.93	.999 984 21	18
19	9 867 348	10 027	1.05	57.98	.999 983 39	19
20	9 864 681	10 212	1.07	57.04	.999 982 56	20
21	9 862 324	10 407	1.09	56.10	.999 981 74	21
22	9 860 277	10 602	1.11	55.16	.999 980 91	22
23	9 858 530	10 800	1.13	54.22	.999 980 09	23
24	9 857 083	11 000	1.15	53.28	.999 979 26	24
25	9 855 936	11 200	1.18	52.34	.999 978 44	25
26	9 855 089	11 400	1.20	51.40	.999 977 61	26
27	9 854 542	11 600	1.22	50.46	.999 976 79	27
28	9 854 295	11 800	1.25	49.52	.999 975 96	28
29	9 854 248	12 000	1.28	48.58	.999 975 14	29
30	9 854 301	12 200	1.30	47.64	.999 974 31	30
31	9 854 354	12 400	1.32	46.70	.999 973 49	31
32	9 854 407	12 600	1.35	45.76	.999 972 66	32
33	9 854 460	12 800	1.38	44.82	.999 971 84	33
34	9 854 513	13 000	1.40	43.88	.999 971 01	34
35	9 854 566	13 200	1.42	42.94	.999 970 19	35
36	9 854 619	13 400	1.45	42.00	.999 969 36	36
37	9 854 672	13 600	1.48	41.06	.999 968 54	37
38	9 854 725	13 800	1.50	40.12	.999 967 71	38
39	9 854 778	14 000	1.52	39.18	.999 966 89	39
40	9 854 831	14 200	1.55	38.24	.999 966 06	40
41	9 854 884	14 400	1.58	37.30	.999 965 24	41
42	9 854 937	14 600	1.60	36.36	.999 964 41	42
43	9 854 990	14 800	1.62	35.42	.999 963 59	43
44	9 855 043	15 000	1.65	34.48	.999 962 76	44
45	9 855 096	15 200	1.68	33.54	.999 961 94	45
46	9 855 149	15 400	1.70	32.60	.999 961 11	46
47	9 855 202	15 600	1.72	31.66	.999 960 29	47
48	9 855 255	15 800	1.75	30.72	.999 959 46	48
49	9 855 308	16 000	1.78	29.78	.999 958 64	49
50	9 855 361	16 200	1.80	28.84	.999 957 81	50
51	9 855 414	16 400	1.82	27.90	.999 956 99	51
52	9 855 467	16 600	1.85	26.96	.999 956 16	52
53	9 855 520	16 800	1.88	26.02	.999 955 34	53
54	9 855 573	17 000	1.90	25.08	.999 954 51	54
55	9 855 626	17 200	1.92	24.14	.999 953 69	55
56	9 855 679	17 400	1.95	23.20	.999 952 86	56
57	9 855 732	17 600	1.98	22.26	.999 952 04	57
58	9 855 785	17 800	2.00	21.32	.999 951 21	58
59	9 855 838	18 000	2.02	20.38	.999 950 39	59
60	9 855 891	18 200	2.05	19.44	.999 949 56	60
61	9 855 944	18 400	2.08	18.50	.999 948 74	61
62	9 855 997	18 600	2.10	17.56	.999 947 91	62
63	9 856 050	18 800	2.12	16.62	.999 947 09	63
64	9 856 103	19 000	2.15	15.68	.999 946 26	64
65	9 856 156	19 200	2.18	14.74	.999 945 44	65
66	9 856 209	19 400	2.20	13.80	.999 944 61	66
67	9 856 262	19 600	2.22	12.86	.999 943 79	67
68	9 856 315	19 800	2.25	11.92	.999 942 96	68
69	9 856 368	20 000	2.28	10.98	.999 942 14	69
70	9 856 421	20 200	2.30	10.04	.999 941 31	70
71	9 856 474	20 400	2.32	9.10	.999 940 49	71
72	9 856 527	20 600	2.35	8.16	.999 939 66	72
73	9 856 580	20 800	2.38	7.22	.999 938 84	73
74	9 856 633	21 000	2.40	6.28	.999 937 01	74
75	9 856 686	21 200	2.42	5.34	.999 936 19	75
76	9 856 739	21 400	2.45	4.40	.999 935 36	76
77	9 856 792	21 600	2.48	3.46	.999 934 54	77
78	9 856 845	21 800	2.50	2.52	.999 933 71	78
79	9 856 898	22 000	2.52	1.58	.999 932 89	79
80	9 856 951	22 200	2.55	.64	.999 932 06	80
81	9 857 004	22 400	2.58	0.00	.999 931 24	81
82	9 857 057	22 600	2.60	0.00	.999 930 41	82
83	9 857 110	22 800	2.62	0.00	.999 929 59	83
84	9 857 163	23 000	2.65	0.00	.999 928 76	84
85	9 857 216	23 200	2.68	0.00	.999 927 94	85
86	9 857 269	23 400	2.70	0.00	.999 927 11	86
87	9 857 322	23 600	2.72	0.00	.999 926 29	87
88	9 857 375	23 800	2.75	0.00	.999 925 46	88
89	9 857 428	24 000	2.78	0.00	.999 924 64	89
90	9 857 481	24 200	2.80	0.00	.999 923 81	90
91	9 857 534	24 400	2.82	0.00	.999 923 00	91
92	9 857 587	24 600	2.85	0.00	.999 922 17	92
93	9 857 640	24 800	2.88	0.00	.999 921 35	93
94	9 857 693	25 000	2.90	0.00	.999 920 52	94
95	9 857 746	25 200	2.92	0.00	.999 919 70	95
96	9 857 799	25 400	2.95	0.00	.999 918 87	96
97	9 857 852	25 600	2.98	0.00	.999 918 05	97
98	9 857 905	25 800	3.00	0.00	.999 917 22	98
99	9 857 958	26 000	3.02	0.00	.999 916 40	99
100	9 858 011	26 200	3.05	0.00	.999 915 57	100

Description of meaning of codes on CSO Table

lx = Number living

dx = Deaths each year

1000qx = Death rate per 1,000

ex = Expectation of life

# **Annuity Certain Table**

Annuity Table showing the current present cash value of an annuity certain of one hundred dollars per month, month by month from two to four hundred eighty months at 2%, 2½%, 3%, 3½%, 4%, 4½%, 5%, 5½%, and 6%.

As provided in Act No. 456, Approved August 31, 1953.

AGE X	0%	2.0% INTEREST	2.5% INTEREST	3.0% INTEREST	3.5% INTEREST	4.0% INTEREST	4.5% INTEREST	5.0% INTEREST	5.5% INTEREST	6.0% INTEREST	AGE X
0	00010	484.502119	391.592802	346.940029	310.309001	279.894338	256.407922	232.051580	214.457290	198.629945	0
1	00107	445.166029	360.941659	316.263117	280.426600	250.451211	223.166795	204.015807	189.012072	179.012072	1
2	00209	402.439844	329.947576	285.235694	249.251509	219.267262	194.303266	174.005867	159.005867	144.005867	2
3	00308	359.598733	298.456196	253.732322	218.137695	188.441139	163.441139	143.005867	128.005867	113.005867	3
4	00405	316.693792	266.747543	221.946121	186.001266	156.001266	131.001266	111.001266	96.001266	81.001266	4
5	00500	273.714922	234.572401	198.595796	163.001266	133.001266	108.001266	88.001266	73.001266	58.001266	5
6	00606	230.651757	200.321458	164.326796	128.001266	98.001266	73.001266	53.001266	38.001266	23.001266	6
7	00709	187.551718	161.996796	125.389233	99.001266	69.001266	44.001266	24.001266	9.001266	-6.001266	7
8	00874	144.271139	121.509805	89.516179	58.001266	28.001266	-2.001266	-32.001266	-67.001266	-102.001266	8
9	00976	100.764444	83.180851	53.516179	23.001266	-27.001266	-62.001266	-97.001266	-132.001266	-167.001266	9
10	01073	57.152734	37.547627	23.574039	29.984206	271.513842	248.149983	224.182955	200.194523	176.194523	10
11	01177	41.080085	26.921211	12.937062	27.444455	270.315762	247.229625	223.437144	199.372799	175.308454	11
12	01285	26.052084	16.522212	3.2751913	25.859558	269.079819	246.256311	222.462769	198.726424	174.984919	12
13	01399	10.693698	6.62523589	32.5431206	24.241923	267.815338	245.250889	221.647570	197.884375	174.434513	13
14	01515	4.3791362	3.59785819	32.324762	22.680017	266.537268	244.299076	220.846287	197.430315	173.938705	14
15	01633	399.062293	357.830811	321.240532	209.662100	265.258113	243.234663	220.182955	196.799286	173.137700	15
16	01751	394.202552	354.276795	319.070661	207.311126	264.000000	242.000000	219.000000	195.000000	172.000000	16
17	01867	392.597731	351.510250	316.962290	207.652070	262.661161	241.196772	218.689113	194.499522	171.394866	17
18	01978	388.978444	348.727065	314.790444	205.979163	261.148603	240.148603	217.827594	193.852454	170.150810	18
19	02086	385.323700	345.982248	312.685385	204.276136	260.020660	239.119112	216.997140	192.719171	169.326446	19
20	02190	381.628277	343.041742	310.376016	202.536666	258.652010	238.339956	216.141691	191.510543	168.783454	20
21	02291	377.850989	340.111990	308.080176	200.739735	257.1238125	236.919852	215.250882	190.798791	168.212515	21
22	02389	374.028559	337.046271	305.749271	198.801296	255.626669	235.426669	214.315830	189.848552	167.677709	22
23	02486	370.062730	334.013472	303.376796	196.790000	254.000000	234.000000	213.327766	188.766176	167.140000	23
24	02582	366.052021	330.826677	300.764169	194.935774	252.617458	232.626296	212.300000	187.625336	166.591776	24
25	02677	361.880160	327.581106	298.104727	192.837600	251.000000	231.000000	211.172376	186.447796	165.517317	25
26	02773	357.634592	324.150695	295.426710	190.684916	249.156745	230.117608	210.394580	185.529833	164.729202	26
27	02871	353.277769	320.656213	292.610242	188.361176	247.380359	229.099911	210.746792	184.499393	163.760311	27
28	02968	348.819915	317.061698	289.696330	186.000000	245.361387	227.385482	210.430082	183.466338	162.761632	28
29	03071	344.260316	313.367016	286.697113	183.596815	243.430826	225.634630	210.030000	182.249151	161.992930	29
30	03173	339.685745	309.570292	283.590815	181.000000	241.234295	223.887771	209.566274	181.020258	161.243825	30
31	03278	335.056467	305.676618	280.390826	178.355972	239.867163	222.864163	208.569285	180.762081	160.475814	31
32	03383	330.021027	301.720310	277.110839	175.631709	237.779660	221.661007	207.441711	180.429582	159.729582	32
33	03491	325.096439	297.655053	273.700017	172.850552	236.430127	219.190519	206.792802	180.076202	159.522236	33
34	03600	320.090245	293.585583	270.292220	169.934271	232.000959	216.139924	205.853870	180.499833	159.255339	34
35	03711	315.030506	289.472663	266.750800	166.930352	229.490979	214.012746	204.230550	180.794442	159.246613	35
36	03824	309.830848	285.352375	263.129081	163.900896	226.900896	211.889343	203.360308	180.330759	159.532110	36
37	03938	304.599075	281.155444	259.814959	160.761217	224.316222	209.529930	202.405634	180.467381	159.076296	37
38	04052	299.293377	276.881683	255.631102	157.583727	221.869543	207.767081	201.466563	180.380629	158.558214	38
39	04167	293.921752	271.535896	251.760871	154.300000	219.663621	206.000000	200.000000	180.000000	158.000000	39
40	04282	288.490421	266.921050	247.833739	150.879517	217.767293	204.250862	198.119973	179.19973	157.19973	40
41	04399	283.001504	262.248974	243.826710	147.436267	212.147243	202.408863	196.000000	178.248444	156.248444	41
42	04516	277.462488	257.499767	239.730601	143.930601	209.757329	200.730601	194.000000	177.230601	155.230601	42
43	04633	271.861644	252.693932	235.609354	140.336507	206.642051	198.323057	192.000000	176.150604	154.150604	43
44	04750	266.220135	247.829164	231.399936	136.650519	203.572229	195.538970	190.765144	175.000000	153.000000	44
45	04867	260.537395	242.983263	227.121101	132.903083	200.439749	192.408810	188.600000	174.000000	152.000000	45
46	04984	254.813895	238.150800	222.770801	129.150800	197.236000	189.150800	185.000000	173.000000	151.000000	46
47	05102	249.050812	233.270800	224.360100	125.360100	194.000000	186.000000	182.000000	171.000000	150.000000	47
48	05220	243.249800	228.360100	221.000000	121.000000	190.000000	182.000000	178.000000	169.000000	149.000000	48
49	05338	237.412165	223.421133	217.000000	116.000000	186.000000	178.000000	174.000000	165.000000	148.000000	49
50	05456	231.549613	218.460820	213.000000	111.000000	182.000000	174.000000	170.000000	161.000000	147.000000	50



**OFFICIALS OF THE STATE OF ALABAMA — 1990**

Address all State Officials, Montgomery, Alabama 36130,  
unless otherwise noted

**GUY HUNT, Governor**

<i>Lieutenant Governor</i> .....	242-7900
James E. Folsom, Jr.	
<i>Attorney General</i> .....	242-7400
Don Siegelman	
<i>Secretary of State</i> .....	242-7200
Perry A. Hand	
<i>State Auditor</i> .....	242-7010
Jan Cook	
<i>State Treasurer</i> .....	242-7500
George Wallace, Jr.	
<i>Superintendent of Education</i> .....	242-5156
Dr. Wayne Teague	
<i>Commissioner of Agriculture and Industries</i> .....	242-2650
Albert McDonald	
<i>State Board of Education</i> .....	242-5335
1st District .....	John M. Tyson, Jr.
2nd District .....	Steadman Shealy, Jr.
3rd District .....	Isabelle Thomasson
4th District .....	Ethel Hall
5th District .....	Willie J. Paul
6th District .....	Spencer Bachus
7th District .....	Victor P. Poole
8th District .....	Dr. Evelyn Pratt
<i>Adjustment, State Board of</i>	
Perry A. Hand .....	<i>Secretary of State</i>
Jan Cook .....	<i>State Auditor</i>
George Wallace, Jr. ....	<i>State Treasurer</i>
Robin Swift .....	<i>Director of Finance</i>
<i>Adjutant General</i> .....	271-7200
Major General Ivan F. Smith	
<i>Aging, Commission on</i> .....	242-5743
Oscar Tucker .....	<i>Executive Director</i>
<i>Agriculture and Industries, State Dept. of</i> .....	242-2650
Albert McDonald .....	<i>Commissioner</i>
Dr. J. Lee Alley .....	<i>Acting Assistant Commissioner</i>

Charles H. Barnes .....	<i>General Counsel</i>
Robert D. Williams, Jr. ....	<i>Chief Accountant</i>
Don Stagg .....	<i>Chief Div., Gins and Warehouses, and Weights and Measures</i>
Robert G. Dekle .....	<i>Dir. Petroleum Commodities</i>
Dr. John A. Bloch .....	<i>Director — Div. of Plant Industry and Agriculture Chemistry</i>
Pyron Keener .....	<i>Chief Director Poultry Inspection</i>
Gurnia Moore .....	<i>Chief Seed Analyst</i>
Tom Stephenson .....	<i>Acting Chief Shipping Point Inspection</i>
Dr. J. Lee Alley .....	<i>Director, Animal Industry Division</i>
Dr. J. Lee Alley .....	<i>State Veterinarian</i>
T. O. Smith .....	<i>General Services Div.</i>
David Gonsoulin .....	<i>Chief Livestock Market News Div.</i>
Jewel T. Barr .....	<i>Chief Statistical Div.</i>
Edward Spencer .....	<i>Assistant — Agricultural Chemistry Lab, Montgomery</i>
John Dewey Jinks .....	<i>Dir. Chemical Lab, Auburn</i>
Patrick Morgan .....	<i>Dir. Pesticide Lab, Auburn</i>
Felix Welch .....	<i>Marketing Division</i>
<i>Agricultural Center Board</i> .....	242-5597
L. T. Farris .....	<i>Coliseum Manager</i>
C. Ed Wesson .....	<i>Assistant Manager</i>
<i>Aeronautics, Alabama Department of</i> .....	242-4480
Arthur Jones .....	<i>Director</i>
<i>Alabama Development Office</i> .....	263-0048
Fred Braswell .....	<i>Director</i>
<i>Alcoholic Beverage Control Board, Alabama</i> .....	271-3840
Mike James .....	<i>Chairman, Florence</i>
<i>Board Members:</i>	
Audrey Wright .....	<i>Montgomery</i>
Chester O. Stephens, Jr. ....	<i>Montgomery</i>
Spencer Bachus .....	<i>Legal Counsel for Board</i>
Tandy Little .....	<i>Administrator</i>
Mack Yeargan .....	<i>Assistant Administrator</i>
<i>Architects, State Board for Registration of</i> .....	242-4179
1115 So. Court St., Montgomery, AL 36104	
Jim H. Seay .....	<i>Secretary</i>
<i>Archives and History, Department of</i> .....	242-4441
Dr. Edwin C. Bridges .....	<i>Director</i>
<i>Arts and Humanities, Council on the</i> .....	242-4076
Albert Head .....	<i>Director</i>

- Athletic Assn., Alabama* ..... 242-5655  
     Herman L. (Bubba) Scott ..... *Executive Director*
- Auctioneers, Board of* ..... 739-0548  
     109 Downtown Plaza, Cullman, Al. 35055  
     Ron Moore ..... *Office Administrator*  
     Raddie Dixon ..... *Bd. Secretary*
- Bar Association, Alabama State* ..... 269-1515  
     Reginald T. Hamner ..... *Executive Director*  
     415 Dexter Ave., Montgomery, AL 36104—P.O. Box 671—36101
- Banking, State Department of* ..... 242-3452  
     Zack Thompson ..... *Superintendent of Banks*  
     David Jones ..... *Asst. Supt. of Banks*
- Budget Officer* ..... 242-3117  
     Lamar Harris
- Building Commissioner, State* ..... 242-4082  
     Philip A. Sharpe ..... *Acting Director*
- Buildings, State* .....  
     Administrative Building ..... H. A. Brooks, *Custodian*  
     Archives and History Building ..... Edward Ross, *Custodian*  
     Capitol Building ..... Norman V. Anderson, *Custodian*  
     Highway Building ..... James P. Howard, *Custodian*  
     Industrial Relations Building ..... E. J. Kelley, *Custodian*  
     Judicial Building ..... Ellis Moore, *Custodian*  
     Public Safety Building ..... Basil D. Kelley, *Custodian*  
     State Office Building ..... Floyd G. Moseley, *Custodian*
- Chiropractic Examiners, State Board of* ..... 947-5838  
     Douglas K. Cooper ..... *Executive Secretary*  
     P. O. Box 925, Robertsdale, Al. 36567
- Comptroller, State* ..... 242-7050  
     Robert Childree .....
- Conservation and Natural Resources, Dept. of* ..... 242-3486  
     James D. Martin ..... *Commissioner*  
     Corky Pugh ..... *Assistant Commissioner*  
     Charles D. Kelley ..... *Director, Div. of Game and Fish*  
     James Griggs ..... *Director, Div. of State Lands*  
     William B. Garner ..... *Director, Div. of Marine Police*  
     Hugh Swingle ..... *Director, Div. of Marine Resources*  
     Gary Leach ..... *Director, Parks Div.*  
     Curtis Parrish ..... *Accounting*
- Consumer Protection, Department of* ..... 242-7334  
     Denise Wright ..... *Director*

<i>Contracts, State Licensing Board of General</i> .....	242-2839
Mrs. Sarah Crumpton .....	<i>Executive Secretary</i>
<i>Corrections, Board of</i> .....	242-9400
Morris L. Thigpen, Sr. ....	<i>Commissioner</i>
<i>Cosmetology, State Board of</i> .....	242-5613
Faye Longcrier .....	<i>Executive Secretary</i>
<i>Courts, Administrative Office of</i> .....	834-7990
Allen Tapley .....	<i>Administrative Director of Courts</i>
<i>Dental Examiners, Board of</i> .....	539-2242
Dr. J. Clyde Yarbrough .....	<i>Secretary-Treasurer</i>
2308 B Starmount Cir., Huntsville, AL 35801	
Diane Pool .....	<i>Administrative Secretary</i>
<i>Docks Department, State</i> .....	690-6112
John B. Dutton .....	<i>Director</i>
P. O. Box 1588, Mobile, Al. 36633	
<i>Economic and Community Affairs,</i>	
<i>Alabama Department of</i> .....	284-8700
Fred O. Braswell, III .....	<i>Director</i>
<i>Education, State Department of</i> .....	242-5156
Dr. Wayne Teague .....	<i>Superintendent of Education</i>
Dr. W. E. Mellown, Jr. ....	<i>Deputy State Supt.</i>
Dr. Eddie Johnson .....	<i>Acting Assistant Superintendent</i>
	<i>for Professional Services</i>
Bill Rutherford .....	<i>Assistant Supt. of Admin. and</i>
	<i>Financial Services</i>
Dr. Maurice Persall .....	<i>Assistant State Supt.</i>
	<i>for Gen. Administrative Services</i>
Dr. W. C. Berryman .....	<i>Director of Federal Adm. Services</i>
Dr. Steve Franks .....	<i>Director, Voc. Education</i>
Lamona Lucas .....	<i>Director, Rehabilitation and</i>
	<i>Crippled Children</i>
Walt Chambers .....	<i>Business Manager</i>
Dr. Ken Wilson .....	<i>Legislative Relations</i>
Dr. Albert McCoy .....	<i>Director, Division of Disability</i>
	<i>Determination Services</i>
Dr. Martha Barton .....	<i>Director, Student Instructional</i>
	<i>Services</i>
Richard Meadows .....	<i>Director, Office of General Counsel</i>
Dr. Maurice Persall .....	<i>Asst. Super. of Gen. Services</i>
Dr. Rex Jones .....	<i>Computer Services</i>
<i>Emergency Management Agency, Alabama</i> .....	242-3318
J. Danny Turner .....	<i>Director</i>

<i>Employees' Retirement System of Alabama</i> .....	832-4140
David G. Bronner .....	<i>Secretary-Treasurer</i>
<i>Engineers and Land Surveyors, State Board of</i>	
Registration for Professional .....	242-5568
Sarah E. Hines .....	<i>Executive Secretary</i>
<i>Entomologists, Horticulturists, Floriculturists and</i>	
Tree Surgeons, Board to Examine .....	832-3753
Albert McDonald .....	<i>Chairman</i>
<i>Environmental Management, Alabama Dept. of</i> .....	271-7700
Leigh Pegues .....	<i>Director</i>
<i>Ethics Commission</i> .....	242-2997
Melvin G. Cooper .....	<i>Director</i>
<i>Examiner of Public Accounts, Dept. of</i> .....	242-9200
Ronald L. Jones .....	<i>Chief Examiner</i>
<i>Executive Department, Governor's Office</i> .....	242-7100
Guy Hunt .....	<i>Governor</i>
Holman Head .....	<i>Executive Assistant</i>
Bill Wasden .....	<i>Legal Advisor</i>
Terry Abbott .....	<i>Press Secretary</i>
Jody Smith .....	<i>Recording Secretary</i>
<i>Farmers' Market Authority</i> .....	242-2618
William M. Arrington .....	<i>Administrator</i>
<i>Finance Department</i> .....	242-7160
Robin Swift .....	<i>Director</i>
Jimmy Rowell .....	<i>Assistant Director</i>
Kent Rose .....	<i>Purchasing Agent</i>
Robert Childree .....	<i>State Comptroller</i>
Charles C. Rowe .....	<i>Budget Officer</i>
Lamar Harris and Lee Miller .....	<i>Legal Counsel</i>
Don Drablos .....	<i>Chief, Division of Service</i>
Ben Spillers .....	<i>Risk Manager, Insurance Fund</i>
Rod Benton .....	<i>Acting Director, Data Systems</i>
	<i>Management Division</i>
Mickey McGee .....	<i>Director of Space Management</i>
	<i>and Personnel</i>
John Brooks .....	<i>Printing and Publication Division</i>
James H. Rowell .....	<i>Asst. Finance Director</i>
<i>Forensic Sciences, Dept. of</i> .....	887-7001
Carlos L. Rabren .....	<i>Director</i>
P. O. Box 231, Auburn, Al. 36830	
<i>Forestry Commission, Alabama</i> .....	240-9304
Cecil W. Moody .....	<i>State Forester</i>

<i>Foresters, State Board of Registration For</i> .....	240-9368
Robert M. Nonnemacher .....	<i>Chairman</i>
Frank E. Jones .....	<i>Secretary</i>
Pamela B. Sears .....	<i>Office Manager</i>
<i>Funeral Services, Board of</i> .....	242-4049
Warren Higgins .....	<i>Executive Secretary</i>
<i>Geological Survey of Alabama</i> .....	349-2852
Dr. Ernest Mancini .....	<i>State Geologist</i>
P. O. Box O, Tuscaloosa, AL 35486-9780	
<i>Health, Department of Public</i>	
C. Earl Fox, M.D., M.P.H. ....	<i>State Health Officer</i>
	242-5052
Tom White .....	<i>Director, Div. of Finance</i>
	242-5338
Cecil McCall .....	<i>Director, Internal Audit</i>
	242-5304
John R. Wible .....	<i>"General Legal Counsel," Legal Division</i>
	242-5105
Ronald E. Goertz .....	<i>Director, Personnel</i>
	<i>and Training Services</i>
	242-5047
William D. Brooks .....	<i>Programs Integrity Officer,</i>
	<i>Personnel and Training Services</i>
	242-5047
H. E. Harrison .....	<i>Director of Capital Expansion</i>
	242-2556
William Callan .....	<i>Director</i>
	<i>Clinical Laboratory Administration</i>
	277-8660
University Drive	
A. Conan Davis, D.M.D. ....	<i>Director, Bureau of</i>
	<i>Dental Health Section</i>
	242-5657
434 Monroe Street	
James W. Cooper .....	<i>Director, Environmental</i>
	<i>and Facility Standards Administration</i>
	242-5004
Charles Woernle .....	<i>State Epidemiologist &amp; Director</i>
	<i>Bureau of Epidemiology and Consultation</i>
	242-5131
Doris Barnette .....	<i>Acting Director, Family</i>
	<i>Health Administration</i>
	242-5673
434 Monroe Street	

O'Neal Green .....	<i>Acting Director, Bureau of Licensure and Certification</i>	242-5116
Gail Holloway .....	<i>Director, Bureau of Preventive Health Services</i>	242-5016
Ruth Harrell .....	<i>Director, Bureau of Public Health Nursing</i>	242-5108
434 Monroe Street		
<i>Health Planning and Development Agency, State</i> .....		242-4107
Derrell O. Fancher .....	<i>Executive Director</i>	
<i>Highway Department, State</i> .....		242-6311
Royce King .....	<i>Director</i>	
<i>Highway Traffic Safety, Law Enforcement Planning</i> .....		242-5897
Charles E. Swindall .....	<i>Chief</i>	
<i>Industrial Relations, Department of</i> .....		242-5420
John G. Allen .....	<i>Director</i>	
	<i>Unemployment Compensation Division</i>	
Clifford DePriest .....	<i>Employment Service Administrator</i>	
James Cogdell .....	<i>Deputy State Programs Administrator</i>	
Tom J. Ventress .....	<i>State Programs Administrator</i>	
Douglas Dyer .....	<i>Chief, Research and Statistics</i>	
Otto P. Hammonds .....	<i>Director, Human Resources Division</i>	
Mark Davis .....	<i>State Workmen's Compensation Administrator</i>	
Byron Abrams .....	<i>Chief, Business Management Division</i>	
Frank Willett .....	<i>Chief, Planning and Systems Analysis Division</i>	
George Cocoris .....	<i>General Counsel</i>	
Grady Simpson .....	<i>Chief, Special Investigations Division</i>	
Tony Piel .....	<i>Manager, Data Processing Division</i>	
<i>Insurance, State Department of</i> .....		269-3550
Mike Weaver .....	<i>Commissioner</i>	
Paul Raadt .....	<i>Chief Examiner Chief of Receivership</i>	
<i>Labor, Department of</i> .....		242-3460
Robin Roland Rea .....	<i>Commissioner</i>	
<i>Legislative Fiscal Office</i> .....		242-7950
William Newton .....	<i>Director</i>	

<i>Legislative Reference Service</i> .....	242-7578
Louis G. Greene .....	<i>Director</i>
<i>Liquefied Petroleum Gas Board, Alabama</i> .....	242-5649
Leonard Pakruda .....	<i>Administrator</i>
<i>Medical Examiners, State Board of</i> .....	242-4116
W. Earl Riley, M.D. ....	<i>Chairman</i>
<i>Medical Services Administration</i> .....	277-2710
Fay Baggiano .....	<i>Commissioner</i>
<i>Mental Health, State Department of</i> .....	271-9207
James W. McFarland .....	<i>Mental Health Receiver/Acting Commissioner</i>
Don V. Schofield .....	<i>Director, Greil</i>
Charles Fetner .....	<i>Director, Bryce Hospital</i>
John T. Bartlett .....	<i>Director, Searcy Hospital</i>
James Pouncey .....	<i>Associate Commissioner for Mental Illness</i>
Larry Latham .....	<i>Associate Commissioner for Mental Retardation</i>
<i>Military Department</i> .....	271-7200
Ivan F. Smith .....	<i>Adjutant General</i>
<i>Nursing, Board of</i> .....	242-4060
Shirley Dykes .....	<i>Executive Officer</i>
<i>Optometry, State Board of</i> .....	687-2545
Robert Pharr .....	<i>Secretary Treasurer</i>
<i>Oil and Gas Board, State</i> .....	349-2852
Ernest Mancini .....	<i>Supervisor</i>
P. O. Drawer O, University of Alabama	35486
<i>Pardons and Paroles, State Board of</i> .....	242-8700
Elmo Graves .....	<i>Executive Director</i>
<i>Peace Officers, Standards and Training Commission</i> .....	242-4047
John W. Anderson .....	<i>Executive Secretary</i>
<i>Human Resources, State Dept. of</i> .....	242-3190
Andrew P. Hornsby, Jr. ....	<i>Commissioner</i>
<i>Personnel Department</i> .....	242-3389
Halycon Ballard .....	<i>Director</i>
<i>Pharmacy, Alabama Board of</i> .....	252-8976
J. W. McLane .....	<i>Secretary</i>
3212 City Federal Bldg. Birmingham, Al. 35203	



<i>Physical Fitness, Commission on</i> .....	242-4496
Daniel Long .....	<i>Executive Director</i>
<i>Physical Therapy, State Board</i> .....	242-4064
Anne H. Harrison .....	<i>Chairman</i>
Suite 220, 777 South Lawrence Street	
Montgomery, Al. 36104	
Kathryn Brown .....	<i>Executive Secretary</i>
<i>Pilotage Commission, State</i> .....	
E. Roberts Leatherbury .....	<i>Chairman</i>
P. O. Box 2188	
Mobile, Al. 36601	
<i>Psychology, State Board of Examiners</i> .....	939-9193
Arnold Mindingall .....	<i>Chairman</i>
1600 7th Ave. S., Suite 054	
Birmingham, Al. 35233	
<i>Public Accountancy, State Board</i> .....	834-7651
Boyd Nicholson .....	<i>Executive Director</i>
<i>Public Library Service, Alabama</i> .....	277-7330
Blane Dessy .....	<i>Director</i>
<i>Public Safety, Department</i> .....	242-4371
Thomas H. Wells .....	<i>Director</i>
N. W. McHenry .....	<i>Chief, Patrol Division</i>
H. J. Hammond .....	<i>Assistant Director</i>
Major Ralph H. Cottingham .....	<i>Drivers License Div. &amp; Safety</i>
Responsibility Unit	
R. C. "Pete" Taylor .....	<i>Head Administrative Div.</i>
Jerry Shoemaker .....	<i>Chief, Bureau of Investigation &amp;</i>
Identification	
<i>Public Service Commission Alabama</i> .....	242-5209
Jim Sullivan .....	<i>President</i>
Charles Martin .....	<i>Associate Commissioner, No. 2</i>
Wallace Tidmore .....	<i>Secretary</i>
Lynn Greer .....	<i>Associate Commissioner, No. 1</i>
<i>Tourism and Travel, State Bureau of</i> .....	242-4169
Lisa Walsh Shivers .....	<i>Director</i>
<i>Purchasing Agent, State</i> .....	242-3128
Kent Rose .....	
<i>Real Estate Commission</i> .....	242-5544
Mrs. Mary Goodwin .....	<i>Director</i>
<i>Revenue, Department of</i> .....	242-3362
James M. Sizemore .....	<i>Commissioner</i>
Whit Guerin .....	<i>Deputy Commissioner</i>

Lewis A. Easterly .....	Secretary
Charles E. Crumbley .....	Chief, Special Investigations Division
Bill Thompson .....	Chief Administrative Law Judge
Ron Bowden .....	Acting Chief Counsel, Legal Division
Kenneth Green .....	Chief, Ad Valorem Tax Division
Robert Brashears .....	Chief, Collections Division
Ernest J. Broadhead .....	Chief, Franchise Tax Division
Paul Bozeman .....	Chief, Income Tax Division
Robert B. McCain .....	Chief, Motor Vehicle Division
Horace Hitt .....	Chief, Sales & Use Tax Division
Rebecca B. Wells .....	Chief, Budget & Administrative Management Div.
Jean Akers .....	Chief, Information System Division
John H. Mann .....	Chief, Research & Information Division
<i>Securities Commission, State</i> .....	242-2984
Robert Prince .....	Acting Director
<i>Social Security, State Agency</i> .....	242-3037
Robert Childree .....	Director
<i>Soil and Water Conservation Committee, State</i> .....	242-2620
James J. Plaster .....	Executive Secretary
<i>Teachers' Retirement System of Alabama</i> .....	832-4140
David G. Bronner .....	Secretary-Treasurer
<i>Television Commission, Alabama Educational</i> .....	328-8756
Judy Stone .....	Executive Director
2112 11th Ave. S., Suite 400	
Skip Hinton .....	General Manager
2101 Magnolia Ave., Birmingham, Al.	35256
<i>Trooper, State (See Public Safety)</i>	
<i>Unemployment Compensation Division (See</i>	
<i>Department of Industrial Relations</i>	
<i>Veterans Affairs, State Department of</i> .....	242-5077
Frank D. Wilkes .....	Director
<i>Veterinary Medical Examiners, Ala. State Board</i> .....	353-2435
Dr. Ray Ashwander .....	Executive Secretary
P.O. Box 1767, Decatur, Al.	35602
<i>Water Improvement Commission</i> .....	271-7700
Leigh Pegues .....	Director

<i>White House Association, The</i> .....	
First White House of the Confederacy .....	242-4624
Mrs. John H. Napier, III .....	<i>Regent</i>

<i>Women's Commission, Ala.</i> .....	
Margaret D. Sizemore .....	
9 Office Park Circle, Room 106	
Birmingham, Al. 35223	

### **SUPREME COURT OF ALABAMA**

445 Dexter Avenue  
Montgomery, Alabama 36130

The Honorable Sonny Hornsby .....	242-4599
<i>Chief Justice Of</i>	
The Honorable Alva Hugh Maddox .....	242-4593
<i>Associate Justice</i>	
The Honorable Richard L. Jones .....	242-4607
<i>Associate Justice</i> (Birmingham)	325-5086
The Honorable Reneau P. Almon .....	242-4597
<i>Associate Justice</i>	
The Honorable Janie L. Shores .....	242-4619
<i>Associate Justice</i> (Birmingham)	325-5086
The Honorable Oscar W. Adams, Jr. ....	242-4584
<i>Associate Justice</i> (Birmingham)	325-5086
The Honorable Gorman Houston .....	242-4537
<i>Associate Justice</i>	
The Honorable Henry Steagall, II .....	242-4353
<i>Associate Justice</i> (Ozark)	870-1031
The Honorable Mark Kennedy .....	242-4530
<i>Associate Justice</i>	

### **ADMINISTRATIVE OFFICE OF COURTS**

817 South Court Street  
Montgomery, Al. 36130

Alan L. Tapley, <i>Administrative Director</i> .....	834-7990
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### **ALABAMA COURT OF CRIMINAL APPEALS**

P. O. Box 351  
Montgomery, Al. 36101

The Honorable Sam W. Taylor .....	242-4577
<i>Presiding Judge</i>	
The Honorable John C. Tyson, III .....	242-4615
<i>Judge</i>	
The Honorable William M. Bowen, Jr. ....	242-4614
<i>Judge</i>	

The Honorable John M. Patterson .....	242-4617
<i>Judge</i>	
The Honorable H. Ward McMillan, Jr. ....	242-4573
<i>Judge</i>	

### ALABAMA COURT OF CIVIL APPEALS

2600 East South Boulevard  
Montgomery, Al. 36116

The Honorable Kennedy F. Ingram .....	242-4099
<i>Presiding Judge</i>	
The Honorable William E. Robertson .....	242-4096
<i>Judge</i>	
The Honorable Robert J. Russell .....	242-4096
<i>Judge</i>	

### CLERKS OF APPELLATE COURTS

State of Alabama  
September, 1980

The Honorable Robert G. Esdale .....	261-4609
<i>Clerk of the Supreme Court</i>	
Judicial Building	
Montgomery, Al. 36130	
The Honorable Mollie Jordan .....	
<i>Clerk, Court of Criminal Appeals</i>	
Judicial Building	
Montgomery, Al. 36130	
The Honorable John H. Wilkerson, Jr. ....	
<i>Clerk, Court of Civil Appeals</i>	
2600 East South Blvd.	
Montgomery, Al. 36116	

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<i>Deputy Marshal</i>	
Judicial Building	
Montgomery, Al. 36130	

### REPORTER OF DECISIONS

George Earl Smith, Montgomery .....	<i>Reporter of Decisions</i>
Bilee K. Cauley, Wetumpka .....	<i>Assistant Reporter of Decisions</i>

## STATE UNIVERSITIES

### ALABAMA AGRICULTURAL AND MECHANICAL UNIVERSITY

Normal, Al. 35762  
Telephone 859-7011

*President* ..... Dr. Carl Marbury  
*ALABAMA STATE UNIVERSITY*

P. O. Box 271  
Montgomery, Al. 36195  
Telephone 293-4100

*President* ..... Dr. Leon Howard  
*AUBURN UNIVERSITY*

Auburn, Al. 36849  
Telephone 826-4000

*President* ..... Dr. James E. Martin  
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### *AUBURN UNIVERSITY AT MONTGOMERY*

Montgomery, Al. 36193  
Telephone 271-9300

*Chancellor* ..... James O. Williams, Ed. D.  
*JACKSONVILLE STATE UNIVERSITY*

Jacksonville, Al. 36265  
Telephone 435-9820

*President* ..... Harold J. McGee  
*LIVINGSTON UNIVERSITY*

Livingston, Al. 35470  
Telephone 652-9661

*President* ..... Asa N. Green, LL.D.  
*THE UNIVERSITY OF ALABAMA SYSTEM*

Office of the Chancellor  
P. O. Box BT

University, Al. 35486  
Telephone 348-5121

*Interim Chancellor* ..... Samuel Earle G. Hobbs

## PUBLIC HIGHER EDUCATION AGENCIES

### *Alabama Commission on Higher Education*

Dr. Joseph T. Sutton, Executive Director .... Montgomery — 269-2700

### *Department of Postsecondary Education*

Dr. Fred Gainous, Chancellor ..... Montgomery — 244-7900

## STATE UNIVERSITIES

### *Alabama Agricultural and Mechanical University*

Dr. Carl Marbury, President ..... Normal — 859-7011

*Alabama State University*

Dr. Leon Howard, President ..... Montgomery — 293-4100

*Athens State College*

James R. Chasteen, President ..... Decatur — 232-1802

*Auburn University*

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*Auburn University at Montgomery*

James O. Williams, Chancellor ..... Montgomery — 271-9300

*Jacksonville State University*

Harold J. McGee, President ..... Jacksonville — 435-9820

*Livingston University*

Asa Green, President ..... Livingston — 652-9661

*Troy State University*

Ralph W. Adams, Chancellor ..... Troy — 566-3000

*Troy State University at Dothan*

Thomas Harrison, President ..... Dothan/Fort Rucker — 598-2443

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*University of Alabama*

Roger Sayers, (Acting) President ..... University — 348-5100

*University of Alabama at Birmingham*

Charles A. McCallum, President ..... Birmingham — 934-3493

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*University of Montevallo*

John Stewart, (Acting) President ..... Montevallo — 665-2521

*University of North Alabama*

Robert M. Guillot, President ..... Florence — 766-4100

*University of South Alabama*

Frederick P. Whiddon, President ..... Mobile — 460-6101

**ALABAMA STATE JUNIOR COLLEGES***Alexander City State Junior College*

Dr. James Cornell, President ..... Alexander City — 234-6346

*Bishop State Junior College*

Yvonne Kennedy, President ..... Mobile — 690-6412

*Brewer State Junior College*

James G. Rayburn (Interim) ..... Fayette — 932-3221

- Calhoun State Community College*  
James R. Chasteen, President ..... Decatur — 353-3102
- Chattahoochee Valley State Community College*  
James Owen, President ..... Phenix City — 297-4981
- Jefferson Davis State Junior College*  
Sandra McLeod, President ..... Brewton — 867-4832
- Enterprise State Junior College*  
Joseph D. Talmadge, President ..... Enterprise — 347-2623
- Faulkner State Junior College*  
Gary Branch, President ..... Bay Minette — 937-9581
- Gadsden State Community College*  
Robert W. Howard, President ..... Gadsden — 547-5451
- Patrick Henry State Junior College*  
James R. Allen, President ..... Monroeville — 575-3158
- Jefferson State Junior College*  
Judy Merritt, President ..... Birmingham — 853-1200
- Lawson State Community College*  
Perry Ward, President ..... Birmingham — 925-1666
- Northeast Alabama State Junior College*  
Charles M. Pendley, President ..... Rainsville — 228-6001
- Northwest Alabama State Junior College*  
Charlie W. Britnell, President ..... Phil Campbell — 993-5331
- Shelton State Community College*  
Leo Sumner, President ..... Tuscaloosa — 556-1165
- Snead State Junior College*  
William H. Osborn, President ..... Boaz — 593-5120
- Southern Union State Junior College*  
Richard Federinko, President ..... Wadley — 395-2211
- George C. Wallace State Community College*  
Nathan L. Hodges, President ..... Dothan — 983-3521
- Wallace State Community College*  
James C. Bailey, President ..... Hanceville — 352-6403
- George Corley Wallace State Junior College*  
Charles L. Byrd, President ..... Selma — 875-2634
- Lurleen B. Wallace State Junior College*  
William H. McWhorter, President ..... Andalusia — 222-6591

## STATE TECHNICAL SCHOOLS

<i>Alabama Aviation &amp; Technical College</i>	
John A. Johnson (Interim) .....	Ozark — 774-5113
<i>Alabama Industrial Development Trng. Inst.</i>	
George L. Howard, Director .....	Montgomery
<i>Atmore State Technical College</i>	
Malcolm A. Jones, President .....	Atmore — 368-8118
<i>Bessemer State Technical College</i>	
Michael Bailey, President .....	Bessemer — 428-6391
<i>Carver State Technical College</i>	
Earl Roberson, President .....	Mobile — 473-8692
<i>Drake State Technical College</i>	
Johnny L. Harris, President .....	Huntsville — 539-4095
<i>Fredd State Technical College</i>	
Norman C. Cephus, President .....	Tuscaloosa — 752-7880
<i>Hobson State Technical College</i>	
H. Hoyt Jones, President .....	Thomasville — 636-4429
<i>Ingram State Technical College</i>	
Murry C. Gregg, President .....	Deatsville — 285-5177
<i>MacArthur State Technical College</i>	
Raymond V. Chisum, President .....	Opp — 493-3573
<i>Muscle Shoals State Technical College</i>	
Larry McCoy, President .....	Muscle Shoals — 381-2813
<i>Northwest Alabama State Technical College</i>	
Wayne Cobb, President .....	Hamilton — 921-3177
<i>Nunnelley State Technical College</i>	
James H. Cornell, President .....	Childersburg — 378-5576
<i>Opelika State Technical College</i>	
Larry Beaty, President .....	Opelika — 745-6437
<i>Patterson State Technical College</i>	
James L. Taunton, President .....	Montgomery — 288-1080
<i>Reid State Technical College</i>	
Wiley Salter, President .....	Evergreen — 578-1313
<i>Southwest State Technical College</i>	
Tom McLeod, President .....	Mobile — 479-7476
<i>Sparks State Technical College</i>	
Linda Wilson, President .....	Eufaula — 687-3543



*Trenholm State Technical College*

Thad C. McClammy, President ..... Montgomery — 832-9000

*Walker State Technical College*

Harold Wade, President ..... Sumiton — 648-3271

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Dr. Billy Hilyer, President ..... Montgomery — 272-5820

*Birmingham-Southern College*

Neal R. Berte, President ..... Birmingham — 226-4600

*Huntingdon College*

Allen K. Jackson, President ..... Montgomery — 265-0511

*Judson College*

Norman H. McCrummen, President ..... Marion — 683-6161

*Miles College*

Dr. Leroy Johnson, President ..... Birmingham — 923-2771

*Mobile College*

Michael A. Magnoli, President ..... Mobile — 675-5990

*Oakwood College*

Calvin B. Rock, President ..... Huntsville — 834-1630

*Samford University*

Thomas E. Corts, President ..... Birmingham — 870-2011

*Southeastern Bible College*

Dr. John D. Talley, Jr., President .... Birmingham — 969-0880

*Spring Hill College*

Rev. Paul S. Tipton, President ..... Mobile — 460-2011

*Stillman College*

Cordell Wynn, President ..... Tuscaloosa — 349-4240

*Talladega College*

Dr. Joseph E. Thompson, President ..... Talladega — 362-0206

*Tuskegee Institute*

Benjamin F. Payton, President ..... Tuskegee Institute — 727-8011

**JUNIOR COLLEGES**

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Willis L. Wright, President ..... Selma

*Concordia College*

Julius Jenkins, President ..... Selma — 874-5700

*Lomax-Hannon Junior College*

Dr. James E. Cook, President ..... Greenville — 382-6605

*Marion Military Institute*

Major Gen. Clyde W. Spence, Jr., President .. Marion — 683-6173

*Selma University*

Dr. B. W. Dawson, President ..... Selma — 872-2533

*Walker College*

Jack Mott, President ..... Jasper — 387-0511

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**ROSTER OF THE SENATE OF ALABAMA  
1990**

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1990**

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James M. Campbell, *Speaker Pro-Tem* ..... Anniston  
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Mobile 36608

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# SUBJECT INDEX

## FIRST EXTRAORDINARY SESSION 1989

## REGULAR SESSION 1990

# INDEX TO ACTS

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